UNEMPLOYMENT INSURANCE REFORM ACT OF 1991

HEARINGS

BEFORE THE

SUBCOMMITTEE ON HUMAN RESOURCES

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDRED SECOND CONGRESS

FIRST SESSION

ON

H.R. 1367

TO PROVIDE A PROGRAM OF FEDERAL SUPPLEMENTAL
COMPENSATION, AND FOR OTHER PURPOSES

MARCH 21 AND 22, 1991

Serial 102-17

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UNEMPLOYMENT INSURANCE REFORM ACT OF 1991

THURSDAY, MARCH 21, 1991

House of Representatives,
Committee on Ways and Means,
Subcommittee on Human Resources,
Washington, D.C.

The subcommittee met, pursuant to notice, at 1:20 p.m., in room B-318, Rayburn House Office Building, Hon. Thomas J. Downey (acting chairman of the subcommittee) presiding.

[The press release announcing the hearings and the bill, H.R. 1367, follow:]

FOR IMMEDIATE RELEASE
TUESDAY, MARCH 12, 1991

PRESS RELEASE #7
SUBCOMMITTEE ON HUMAN RESOURCES
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-1721

THE HONORABLE THOMAS J. DOWNEY (D., N.Y.), ACTING CHAIRMAN, SUBCOMMITTEE ON HUMAN RESOURCES, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES HEARINGS ON H.R. 1367, THE "UNEMPLOYMENT INSURANCE REFORM ACT OF 1991"

The Honorable Thomas J. Downey (D., N.Y.), Acting Chairman, Subcommittee on Human Resources, Committee on Ways and Means, U.S. House of Representatives, today announced the Subcommittee will hold hearings on H.R. 1367, the "Unemployment Insurance Reform Act of 1991." The hearings will be held on Thursday, March 21, 1991, beginning at 1:00 p.m., and Friday, March 22, 1991, beginning at 10:00 a.m., in room B-318 of the Rayburn House Office Building both days.

The Unemployment Insurance Reform Act of 1991 would:

- Repeal the Federal-State Extended Benefits Program and replace it with a permanent Federal Supplemental Compensation Program providing three tiers of up to 26 additional weeks of benefits funded 100 percent out of Federal unemployment taxes.
- Restore unemployment insurance to the uninsured by restricting the ability of States to disqualify claimants under certain conditions.
- Restore ex-servicemembers' benefits from the current 13 weeks to 26 weeks, and reduce their waiting period from the current 4 weeks to generally one week.
- Require claimants with at least three years of experience with their last employer to participate in an intensive job search assistance program after they have received 10 weeks of regular State benefits.
- Reform the administrative funding of the unemployment insurance program so that States can administer their programs properly and respond to unanticipated increases in unemployment.
- Authorize premium interest rates for States who maintain solvent programs and establish a new Advisory Council on Unemployment Insurance.
- Gradually reduce the Federal unemployment tax rate from 0.8 percent to 0.3 percent, and raise the Federal unemployment taxable wage base from the current $7,000 to $55,800 in 1992. Decouple the Federal taxable wage base from State taxable wage bases.

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD:

Testimony at the hearing will be taken from public witnesses. Individuals and organizations interested in presenting oral testimony before the Subcommittee must submit their requests to be heard by telephone to Harriett Lawler or Diane Kirkland [(202) 225-1721] no later than noon, Monday, March 18, 1991. The telephone request must be followed by a formal written request to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. The Subcommittee staff will notify by telephone those scheduled to appear as soon as possible after the filing deadline. Any questions concerning a scheduled appearance should be directed to the Subcommittee [(202) 225-1025].

(MORE)

It is urged that persons and organizations having a common position make every effort to designate one spokesperson to represent them in order for the Subcommittee to hear as many points of view as possible. Time for oral presentations will be strictly limited with the understanding that a more detailed statement may be included in the printed record of the hearings. **(See formatting requirements below.)** This process will afford more time for Members to question witnesses. In addition, witnesses may be grouped as panelists with strict time limitations for each panelist.

In order to assure the most productive use of the limited amount of time available to question witnesses, all witnesses scheduled to appear are required to submit 200 copies of their prepared statements to the Subcommittee office, B-317 Rayburn House Office Building, at least 24 hours in advance of their scheduled appearance. Failure to comply with this requirement may result in the witness being denied the opportunity to testify in person.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE:

Persons wishing to submit written statements for the printed record of the hearings should submit at least six (6) copies of their statements by close of business, Monday, April 8, 1991, to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public, they may deliver 100 additional copies for this purpose to the Subcommittee office, room B-317 Rayburn House Office Building, on or before the day of the hearing.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

I

102D CONGRESS
1ST SESSION

H. R. 1367

To provide a program of Federal supplemental compensation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 1991

Mr. DOWNEY (for himself, Mr. FORD of Tennessee, Mr. LEVIN of Michigan, Mr. PEASE, and Mr. MATSUI) introduced the following bill; which was referred to the Committee on Ways and Means

---

A BILL

To provide a program of Federal supplemental compensation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unemployment Insurance Reform Act of 1991".

TITLE I—FEDERAL SUPPLEMENTAL COMPENSATION PROGRAM

Subtitle A—Establishment of Program

SEC. 101. FEDERAL-STATE AGREEMENTS.

(a) GENERAL RULE.—Any State which desires to do so may enter into and participate in an agreement with the Secretary under this subtitle. Any State which is party to an agreement under this subtitle may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of Federal supplemental compensation—

(1) to individuals who—

(A) have exhausted all rights to regular compensation under the State law,

(B) have no rights to compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (and is not paid or entitled to be paid any additional compensation under any such State or Federal law), and

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada,

(2) for any week of unemployment which begins in the individual's period of eligibility.

(c) EXHAUSTION OF BENEFITS.—For purposes of this subtitle, an individual shall be deemed to have exhausted his rights to regular compensation under a State law—

(1) when no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period, or

(2) when his rights to such compensation have terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT.—For purposes of any agreement under this subtitle—

(1) the amount of the Federal supplemental compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation

(including dependents' allowances) payable to him during his benefit year under the State law for a week of total unemployment, and

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for Federal supplemental compensation and the payment thereof; except where inconsistent with the provisions of this subtitle or with the regulations of the Secretary promulgated to carry out this subtitle.

SEC. 102. FEDERAL SUPPLEMENTAL COMPENSATION ACCOUNT.

(a) GENERAL RULE.—

(1) ESTABLISHMENT OF ACCOUNT.—Any agreement under this subtitle with a State shall provide that such State will establish, for each eligible individual who files an application for Federal supplemental compensation, a Federal supplemental compensation account with respect to such individual's benefit year.

(2) LIMITATION ON BENEFIT PAYMENTS.—The amount of Federal supplemental compensation payable to an eligible individual with respect to any benefit year shall not exceed the amount in such indi-

vidual's account established under this section for such benefit year.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in any Federal supplemental compensation account shall be equal to the lesser of—

(A) 100 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation, or

(B) the applicable limit times his average weekly benefit amount for his benefit year.

(2) APPLICABLE LIMIT.—For purposes of this subsection—

In the case of weeks beginning during a:	The applicable limit is:
8-percent period	26
7-percent period	18
6-percent period	9.

(3) SPECIAL RULE.—In determining whether Federal supplemental compensation is payable to any individual for any week, the applicable limit in effect under paragraph (2) for such week shall be taken into account; except that an individual's applicable limit for any week shall in no event be less

than the highest applicable limit in effect for any prior week for which Federal supplemental compensation was payable to the individual from the account involved.

(4) DETERMINATION OF PERIODS.—

(A) IN GENERAL.—For purposes of this subsection, the terms "8-percent period", "7-percent period", and "6-percent period" mean, with respect to any State, the period which—

(i) begins with the month after the 1st month for which the applicable trigger is on, and

(ii) ends with the month after the 1st month for which the applicable trigger is off.

(B) APPLICABLE TRIGGER.—In the case of any 8-percent period, 7-percent period, or 6-percent period, as the case may be—

(i) the applicable trigger is on for any month if the rate of total unemployment in the State (seasonally adjusted) for the most recent 3 months for which data are available (as of the close of such month) falls within the applicable range, and

(ii) the applicable trigger is off for any month if the requirements of clause (i) are not satisfied.

(C) APPLICABLE RANGE.—For purposes of this subsection, the applicable range is as follows:

In the case of a:	The applicable range is:
8-percent period ..	A rate equal to or exceeding 8 percent.
7-percent period ..	A rate equal to or exceeding 7 percent but less than 8 percent.
6-percent period ..	A rate equal to or exceeding 6 percent but less than 7 percent.

(5) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

(c) COORDINATION WITH TRADE ACT OF 1974.—

(1) Except as provided in paragraph (2), the maximum amount of Federal supplemental compensation payable to an individual shall not be reduced by reason of any trade readjustment allowance to which the individual was entitled under the Trade Act of 1974.

(2) If an individual received any trade readjustment allowance under the Trade Act of 1974 in re-

spect of any benefit year, the maximum amount of Federal supplemental compensation payable under this subtitle in respect of such benefit year shall be reduced (but not below zero) by the aggregate amount of trade readjustment allowances payable in respect of such benefit year.

SEC. 103. SUPPLEMENTAL BENEFIT PERIODS.

(a) GENERAL RULE.—For purposes of this subtitle, in the case of any State, a supplemental benefit period—

(1) shall begin with the month after the 1st month for which there is a State "on" indicator, and

(2) shall end with the month after the 1st month for which there is a State "off" indicator.

(b) SPECIAL RULES.—

(1) MINIMUM PERIOD, ETC.—In the case of any State—

(A) no supplemental benefit period shall last for a period of less than 3 consecutive months, and

(B) no supplemental benefit period may begin before the 4th month after the close of a prior supplemental benefit period with respect to such State.

(2) NOTIFICATION BY SECRETARY.—When a determination has been made that a supplemental

benefit period is beginning or ending with respect to a State, the Secretary shall cause notice of such determination to be published in the Federal Register.

(3) TRANSITIONAL RULE.—No supplemental benefit period shall begin before the later of—

(A) the month following the month in which this Act is enacted, or

(B) the month following the month in which the agreement under this subtitle is entered into.

(c) ELIGIBILITY PERIOD.—For purposes of this subtitle, an individual's eligibility period shall consist of the weeks in his benefit year which begin in a supplemental benefit period and, if his benefit year ends within such supplemental benefit period, any weeks thereafter which begin in such supplemental benefit period. In no event shall an individual's period of eligibility include any weeks after the 26th week after the end of the benefit year for which he exhausted his rights to regular compensation.

(d) STATE "ON" AND "OFF" INDICATORS.—For purposes of this section—

(1) "ON" INDICATOR.—There is a State "on" indicator for a month if—

(A) for the period consisting of the most recent 3 months for which data are available as of the close of such month, the rate of total unemployment in such State (seasonally adjusted) equals or exceeds 6 percent, and

(B) either—

(i) the rate of total unemployment in such State (seasonally adjusted) for the 3-month period referred to in subparagraph (A) equals or exceeds 120 percent of the average of such rates for the corresponding 3-month periods ending in each of the preceding two calendar years, or

(ii) the rate of total unemployment for all States (seasonally adjusted) for the period consisting of the most recent 3 months for which data are available as of the close of such month equals or exceeds 6 percent.

(2) "OFF" INDICATOR.—There is a State "off" indicator for a month if either the requirements of subparagraph (A) or (B) of paragraph (1) are not satisfied.

(e) TEMPORARY NATIONAL TRIGGER.—

(1) IN GENERAL.—For purposes of determining eligibility for Federal supplemental compensation for weeks beginning before October 1, 1992—

(A) if the requirements of clause (ii) of subsection (d)(1)(B) are met for any month—

(i) a State "on" indicator shall be deemed to be in effect in all States for such month, and

(ii) a State "off" indicator shall not be treated as in effect in any State for such month, and

(B) in the case of weeks beginning during any supplemental benefit period which would not have been in effect but for subparagraph (A), nine shall be treated as the applicable limit for purposes of section 102(b).

(2) REACHBACK PROVISIONS NOT AVAILABLE.—Notwithstanding section 105(b), paragraph (1) shall not apply in any case where the individual exhausted his rights to regular compensation under the State law before the month following the month in which this Act is enacted.

(f) TRANSITIONAL RULE.—In determining whether there is a State "on" or "off" indicator under this section (or whether there is an applicable trigger under section 102) for any month before the Secretary has established a system for making seasonal adjustments on a State-by-State basis, determinations under subparagraphs (A) and

(B)(i) of subsection (d)(1) of this section and under section 102(b)(4)(B) shall be made—

(1) as if such provisions did not include the phrase "(seasonally adjusted)", and

(2) by substituting "6" for "3" each place it appears.

SEC. 104. PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF FEDERAL SUPPLEMENTAL COMPENSATION.

(a) GENERAL RULE.—There shall be paid to each State which has entered into an agreement under this subtitle an amount equal to 100 percent of the Federal supplemental compensation paid to individuals by the State pursuant to such agreement.

(b) TREATMENT OF REIMBURSABLE COMPENSATION.—No payment shall be made to any State under this section in respect of compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this subtitle or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this subtitle in respect of such compensation.

(c) DETERMINATION OF AMOUNT.—Sums payable to any State by reason of such States having an agreement under this subtitle shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this subtitle for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such method as may be agreed upon by the Secretary and the State agency of the State involved.

(d) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this subtitle. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the supplemental compensation and reemployment assistance account (as established by section 905 of the Social Security Act) to the account of such State in the Unemployment Trust Fund.

SEC. 105. DEFINITIONS; SPECIAL RULES.

(a) GENERAL RULE.—For purposes of this subtitle:

(1) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(2) COMPENSATION.—The term "compensation" means cash benefits payable to individuals with respect to their unemployment.

(3) REGULAR COMPENSATION.—The term "regular compensation" means compensation payable to an individual under any State unemployment compensation law (including compensation payable pursuant to chapter 85 of title 5, United States Code), other than additional compensation.

(4) ADDITIONAL COMPENSATION.—The term "additional compensation" means compensation payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors.

(5) BENEFIT YEAR.—The term "benefit year" means the benefit year as defined in the applicable State law.

(6) BASE PERIOD.—The term "base period" means the base period as determined under applicable State law for the benefit year.

(7) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(8) STATE AGENCY.—The term "State agency" means the agency of the State which administers its State law.

(9) STATE LAW.—The term "State law" means the unemployment compensation law of the State, approved by the Secretary under section 3304 of the Internal Revenue Code of 1986.

(10) WEEK.—The term "week" means a week as defined in the applicable State law.

(b) REACHBACK PROVISIONS.—If—

(1) any individual exhausted his rights to regular compensation under the State law after December 31, 1990, and before the month following the month in which this Act is enacted (or, if later, the month following the month in which the agreement under this subtitle is entered into), and

(2) a supplemental benefit period is in effect with respect to the State for such following month,

such individual shall be entitled to supplemental compensation under this subtitle in the same manner as if his benefit year ended no earlier than the last day of the first week of such following month.

SEC. 106. FRAUD AND OVERPAYMENTS.

(a)(1) If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of Federal supplemental compensation under this subtitle to which he was not entitled, such individual—

(A) shall be ineligible for further Federal supplemental compensation under this subtitle in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(B) shall be subject to prosecution under section 1001 of title 18, United States Code.

(2)(A) In the case of individuals who have received amounts of Federal supplemental compensation under this subtitle to which they were not entitled, the State is authorized to require such individuals to repay the amounts of such Federal supplemental compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(i) the payment of such Federal supplemental compensation was without fault on the part of any such individual, and

(ii) such repayment would be contrary to equity and good conscience.

(B) The State agency may recover the amount to be repaid, or any part thereof, by deductions from any Federal supplemental compensation payable to such individual under this subtitle or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the Federal supplemental compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(C) No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(3) Any determination by a State agency under paragraph (1) or (2) shall be subject to review in the same manner and to the same extent as determinations under

the State unemployment compensation law, and only in that manner and to that extent.

Subtitle B—Repeal of Extended Program

SEC. 111. REPEAL OF EXTENDED UNEMPLOYMENT COMPENSATION PROGRAM.

(a) GENERAL RULE.—

(1) The Federal-State Extended Unemployment Compensation Act of 1970 is hereby repealed.

(2) Subsection (a) of section 3304 of the Internal Revenue Code of 1986 is amended by striking paragraph (11) and by redesignating the following paragraphs accordingly.

(3) Subsection (c) of section 3304 of such Code is amended by striking "(including provisions relating to the Federal-State Extended Unemployment Compensation Act of 1970 (or any amendments thereto) as required under subsection (a)(11))".

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—

(1) Section 905 of the Social Security Act is amended—

(A) by striking "extended unemployment compensation account" each place it appears and inserting "supplemental compensation and reemployment assistance account",

(B) by striking "EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT" in the heading of such section and inserting "SUPPLEMENTAL COMPENSATION AND REEMPLOYMENT ASSISTANCE ACCOUNT", and

(C) by striking "EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT" in the heading of subsection (d) and inserting "SUPPLEMENTAL COMPENSATION AND REEMPLOYMENT ASSISTANCE ACCOUNT".

(2) Subsection (c) of section 905 of such Act is amended by striking "section 204(e) of the Federal-State Extended Unemployment Compensation Act of 1970" and inserting "section 104(d) of the Unemployment Insurance Reform Act of 1991".

(3) Subsection (d) of section 905 of such Act is amended by striking "the Federal-State Extended Unemployment Compensation Act of 1970" and inserting "subtitle A of title I of the Unemployment Insurance Reform Act of 1991".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to weeks of unemployment beginning after the month in which this Act is enacted.

TITLE II—MODIFICATIONS TO ELIGIBILITY PROVISIONS

SEC. 201. LIMITATION ON DISQUALIFICATIONS UNDER STATE LAW.

(a) GENERAL RULE.—Paragraph (10) of section 3304(a) of the Internal Revenue Code of 1986 (relating to requirements for approval of State laws) is amended to read as follows:

"(10)(A) no cancellation of wage credits or reduction of benefit rights may be imposed for any cause other than discharge for misconduct connected with work, fraud in connection with a claim for compensation, or receipt of disqualifying income;

"(B) any denial of compensation for a cause not described in subparagraph (A) (other than involvement in a labor dispute) shall be limited to a period of disqualification not to exceed 10 weeks and, in the case of any such disqualification—

"(i) no additional employment or wages shall be required to reestablish eligibility for compensation, but

"(ii) the individual with respect to whom such compensation was denied shall be treated for purposes of section 301 of the Unemployment Insurance Reform Act of 1991 as an individual with respect to whom the requirements of subsections (a)(1) and (b)(1) of such section 301 are met;

"(C) compensation shall not be denied to any individual by reason of the circumstances under which such individual separated from employment by any employer unless such separation was such individual's most recent separation from employment; and

"(D) compensation shall not be denied to any individual for any week under State law provisions relating to availability for work, active search for work, or refusal to accept work if—

"(i) such individual is unable to comply with such provisions for such week by reason of any physical condition,

"(ii) the inability to comply with such provisions is reasonably expected to last for a period not exceeding 6 weeks, and

"(iii) such individual provides such evidence as the State agency may require of such inability;".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on November 1, 1993.

(2) SPECIAL RULE.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not successive) between the date of the enactment of this Act and November 1, 1993, such amendments shall take effect 30 calendar days after the 1st day on which such legislature is in session on or after November 1, 1993.

SEC. 202. REPEAL OF CERTAIN LIMITATIONS ON PAYMENT OF UNEMPLOYMENT COMPENSATION TO FORMER MEMBERS OF THE ARMED FORCES.

(a) GENERAL RULE.—Subsection (c) of section 8521 of title 5, United States Code, is hereby repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to weeks of unemployment beginning after the date of the enactment of this Act.

SEC. 203. OPTIONAL BENEFITS FOR CERTAIN SCHOOL EMPLOYEES.

(a) IN GENERAL.—

(1) Clause (ii)(I) of section 3304(a)(6)(A) of the Internal Revenue Code of 1986 is amended by

striking "shall be denied" and inserting "may be denied".

(2) Subparagraph (A) of section 3304(a)(6) of such Code is amended by striking "and" at the end of clauses (iii) and (iv) and by inserting after clause (v) the following new clause:

"(vi) with respect to services described in clause (ii), clauses (iii) and (iv) shall be applied by substituting 'may be denied' for 'shall be denied', and".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of compensation paid for weeks beginning on or after the date of the enactment of this Act.

SEC. 204. TREATMENT OF CERTAIN DETERMINATIONS.

(a) IN GENERAL.—Section 3304(a) of the Internal Revenue Code of 1986 (as amended by title I) is amended—

(1) by striking out "and" at the end of paragraph (16);

(2) by redesignating paragraph (17) as paragraph (18); and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) no finding of fact or law, judgment, conclusion, or final order made with respect to a claim for unemployment compensation benefits pursuant to the State's unemployment compensation law may be conclusive or binding or used as evidence in any separate or subsequent action or proceeding in another forum, except proceedings under the State's unemployment compensation law, regardless of whether the prior action was between the same or related parties or involved the same facts; and".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on November 1, 1992.

(2) SPECIAL RULE.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not successive) between the date of the enactment of this Act and November 1, 1992, such amendments shall take effect 30 calendar days after the 1st day on which such legislature is in session on or after November 1, 1992.

SEC. 205. PROMOTION OF RETRAINING OF LONG-TERM UNEMPLOYMENT COMPENSATION RECIPIENTS.

(a) GENERAL RULE.—Paragraph (8) of section 3304(a) of the Internal Revenue Code of 1986 (relating to requirements for approval of State laws) is amended to read as follows:

"(8)(A) compensation shall not be denied to any individual for any week because during such week such individual is participating (as defined in regulations issued by the Secretary of Labor) in training with the approval of the State agency (or because of the application, to any week during which such individual is so participating, of State law provisions relating to the availability for work, active search for work, or refusal to accept work), and

"(B) in the case of an individual who has received compensation under the State law for 10 weeks or more during the benefit year, the State agency shall approve any program of training involving—

"(i) classroom training,

"(ii) occupational skill training,

"(iii) basic or remedial education, or

"(iv) literacy or remedial English training, unless such agency determines, from a preponderance of evidence, that such training would not provide a net social benefit;".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall take effect on November 1, 1992.

(2) SPECIAL RULE.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not successive) between the date of the enactment of this Act and November 1, 1992, such amendments shall take effect 30 calendar days after the 1st day on which such legislature is in session on or after November 1, 1992.

TITLE III—FEDERAL JOB SEARCH ASSISTANCE

Subtitle A—General Provisions

SEC. 301. FEDERAL JOB SEARCH ASSISTANCE.

(a) GENERAL RULE.—For purposes of section 3304(a)(18) of the Internal Revenue Code of 1986, a State law shall provide that—

(1) each individual to whom this section applies shall be required to participate in a qualified intensive job search program after receiving compensation

under such State law for 10 weeks during any benefit year,

(2) every individual required to participate in a job search program under paragraph (1) shall be entitled to receive an intensive job search program voucher, and

(3) any individual who is required under paragraph (1) to participate in a qualified intensive job search program and who does not satisfactorily participate in such program shall be disqualified from receiving compensation under such State law for the period specified in the State law.

(b) INDIVIDUALS TO WHOM SECTION APPLIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply to any individual receiving compensation under the State law during any benefit year if, during the 3-year period ending on the last day of the base period for such benefit year, such individual had at least 126 weeks of employment at wages of $30 or more a week with such individual's last employer in such base period (or, if data with respect to weeks of employment with such last employer are not available, an equivalent amount of employment computed under regulations prescribed by the Secretary).

(2) EXCEPTIONS.—This section shall not apply to any individual if—

(A) such individual has a definite date for recall to his former employment,

(B) such individual seeks employment through a union hall or similar arrangement, or

(C) the State agency—

(i) waives the requirements of subsection (a)(1) for good cause shown by such individual, or

(ii) determines that such participation would not be appropriate for such individual.

(3) SPECIAL RULES.—For purposes of paragraph (1)—

(A) Any reference to an employer shall include a reference to any predecessor thereof.

(B) Any week in which an individual—

(i) is on employer-authorized leave for purposes of vacation, sickness, injury, maternity, or inactive duty or active duty military service for training,

(ii) does not work because of a disability that is compensable under a work-men's compensation law or plan of a State or the United States, or

(iii) had his employment interrupted in order to serve as a full-time representative of a labor organization in such firm or subdivision,

shall be treated as a week of employment at wages of $30 or more, but not more than 7 weeks, in case of weeks described in clause (i) or (iii), or both, may be treated as weeks of employment under this sentence during any 12-month period.

(c) QUALIFIED INTENSIVE JOB SEARCH PROGRAM.—For purposes of this section, the term "qualified intensive job search program" means any intensive job search assistance program which—

(1) is approved by the State agency,

(2) is provided by an organization qualified to provide job search assistance programs under any other Federal law, and

(3) includes—

(A) all basic employment services such as orientation, testing, a job-search workshop, and an individual assessment and counseling interview, and

(B) additional services such as ongoing contact with the program staff, followup assistance, resource centers, and job search materials and equipment.

(d) INTENSIVE JOB SEARCH VOUCHER.—For purposes of this section, the term "intensive job search voucher" means any voucher which entitles the organization (including the State employment service) providing the qualified intensive job search assistance program to a payment from the State agency equal to the lesser of—

(1) the reasonable costs of providing such program, or

(2) the average weekly benefit amount in the State.

SEC. 302. PAYMENTS TO STATES.

(a) GENERAL RULE.—There shall be paid to each State an amount equal to the amount of the payments made by the State agency pursuant to intensive job search vouchers provided under section 301.

(b) PAYMENTS ON CALENDAR MONTH BASIS.—There shall be paid to each State either in advance or by way of reimbursement, as may be determined by the Secretary, such sum as the Secretary estimates the State will be entitled to receive under this subtitle for each calendar month, reduced or increased, as the case may be, by any sum by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such method as may be agreed upon by the Secretary and the State agency.

(c) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payment to the State in accordance with such certification, by transfers from the supplemental compensation and reemployment assistance account (as established by section 905 of the Social Security Act) to the account of such State in the Unemployment Trust Fund.

SEC. 303. DEFINITIONS.

For purposes of this subtitle, the terms "compensation", "benefit year", "Secretary", "State", "State agency", "State law", "base period", and "week" have the respective meanings given such terms by section 105.

Subtitle B—Conforming Amendments

SEC. 311. STATE LAW REQUIREMENTS.

(a) GENERAL RULE.—Subsection (a) of section 3304 of the Internal Revenue Code of 1986 (as amended by titles I and II) is amended by striking "and" at the end of paragraph (17), by redesignating paragraph (18) as paragraph (19), and by inserting after paragraph (17) the following new paragraph:

"(18) individuals shall participate in intensive job search assistance programs and shall be entitled to receive intensive job search vouchers as provided in subtitle A of title III of the Unemployment Insurance Reform Act of 1991; and".

(b) CONFORMING AMENDMENTS.—

(1)(A) Paragraph (4) of section 3304(a) of such Code is amended by striking "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) amounts may be used to pay intensive job search vouchers as provided in subtitle A of title III of the Unemployment Insurance Reform Act of 1991;".

(B) Subsection (f) of section 3306 of such Code is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; and", and by adding at the end thereof the following new paragraph:

"(4) amounts may be used to pay intensive job search vouchers as provided in subtitle A of title III of the Unemployment Insurance Reform Act of 1991.".

(C) Paragraph (5) of section 303(a) of the Social Security Act is amended by inserting before the semicolon at the end thereof the following: ": *Provided further*, That amounts may be used to pay intensive job search vouchers as provided in subtitle A of title III of the Unemployment Insurance Reform Act of 1991.".

SEC. 312. PAYMENTS FROM SUPPLEMENTAL COMPENSATION AND REEMPLOYMENT ASSISTANCE ACCOUNT.

(a) Subsection (c) of section 905 of the Social Security Act (as amended by title I) is amended by inserting "and subtitle A of title III of such Act" after "1991".

(b) The first sentence of subsection (d) of section 905 of such Act (as so amended) is amended by inserting "and subtitle A of title III of such Act" after "1991".

Subtitle C—Effective Date

SEC. 321. EFFECTIVE DATE.

The provisions of this title (and the amendments made by this title) shall take effect on the date of the enactment of this Act; except that the provisions of this title shall not be a requirement of any State law under section 3304(a) of the Internal Revenue Code of 1986 for any period before November 1, 1993.

TITLE IV—FINANCING PROVISIONS

Subtitle A—Modifications to Federal Unemployment Tax

SEC. 401. MODIFICATIONS TO FEDERAL UNEMPLOYMENT TAX.

(a) GENERAL RULE.—Section 3301 of the Internal Revenue Code of 1986 (relating to rate of Federal unemployment tax) is amended to read as follows:

"SEC. 3301. RATE OF TAX.

"(a) GENERAL RULE.—There is hereby imposed on every employer (as defined in section 3306(a)) for each calendar year an excise tax, with respect to having individuals in his employ, equal to the sum of—

"(1) 5.4 percent of the total wages (as defined in section 3306(b)) paid by him during the calendar year with respect to employment (as defined in section 3306(c)), and

"(2) 0.3 percent of the total Federal taxable wages paid by him during the calendar year with respect to employment (as so defined).

"(b) FEDERAL TAXABLE WAGES.—For purposes of subsection (a), the term 'Federal taxable wages' means wages as defined in section 3306(b), except that the contribution and benefit base determined under section 230 of the Social Security Act for the calendar year shall be substituted for '$7,000' each place it appears in paragraph (1) of section 3306(b).

"(c) PHASE-IN.—Paragraph (2) of subsection (a) shall be applied with respect to Federal taxable wages paid in a calendar year before 1997 by substituting the applicable percentage determined under the following table for '0.3 percent':

"In the case of Federal taxable wages paid in calendar year:	The applicable percentage is:
1992	0.75 percent
1993	0.6 percent
1994	0.55 percent
1995	0.4 percent
1996	0.35 percent."

(b) CONFORMING AMENDMENTS.—

(1) MODIFICATION TO CREDIT PROVISIONS.—

(A) Paragraph (1) of section 3302(c) of such Code is amended to read as follows:

"(1) No credit shall be allowed under this section against the tax imposed by section 3301(a)(2), and the total credits allowed to a taxpayer under this section shall not exceed 100 percent of the tax against which such credits are allowable."

(B) Subparagraph (A) of section 3302(c)(2) of such Code is amended—

(i) by striking "5 percent of the tax imposed by section 3301 with respect to the wages" in clause (i) and inserting "0.3 percent of the wages", and

(ii) by striking "an additional 5 percent, for each succeeding taxable year, of the tax imposed by section 3301 with respect to the wages" in clause (ii) and by inserting "an additional 0.3 percent, for each succeeding taxable year, of the wages".

(C) Paragraph (3) of section 3302(c) of such Code is amended by striking "7 1/2 percent of the tax imposed by section 3301 with respect to the wages" and inserting "0.45 percent of the wages".

(D) Subsection (d) of section 3302 of such Code is amended by striking paragraph (1) and by redesignating the following paragraphs accordingly:

(2) INSTALLMENT PAYMENT PROVISIONS.—Subsection (b) of section 6157 of such Code is amended to read as follows:

"(b) COMPUTATION OF TAX.—The tax for any calendar quarter or other period referred to in paragraph (1) or (2) of subsection (a) shall be determined without regard to paragraph (1) of section 3301(a)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid after December 31, 1991.

Subtitle B—Financing Reforms

SEC. 411. MODIFICATIONS TO FEDERAL UNEMPLOYMENT ACCOUNTS.

(a) TREATMENT OF STATES MAINTAINING ADEQUATE BALANCES.—Section 904 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Increase in Quarterly Credits for States With Adequate Balances

"(h)(1) If a State's high-cost multiple exceeds 0.5 for any calendar quarter, the Secretary of the Treasury shall transfer (as of the close of the succeeding calendar quarter) from the general fund of the Treasury to the account of such State in the Unemployment Trust Fund an amount equal to the applicable percentage of the portion of the earnings of the Fund which are credited under subsection (e) to such account as of the close of such succeeding calendar quarter.

"(2) For purposes of paragraph (1)—

"If the State's high-cost multiple:	The applicable percentage is:
Exceeds 0.5 but does not exceed 1.0	5 percent
Exceeds 1.0 but does not exceed 1.5	10 percent
Exceeds 1.5	15 percent.

"(3)(A) For purposes of this subsection, the high-cost multiple of any State for any calendar quarter is the amount obtained by dividing the fraction set forth in subparagraph (B) by the fraction set forth in subparagraph (C). Such multiple shall be determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury before the close of the calendar quarter following the quarter for which the multiple is being determined.

"(B) For purposes of subparagraph (A), the fraction set forth in this subparagraph with respect to any State for any calendar quarter is a fraction—

"(i) the numerator of which is the account balance of the State as of the close of the quarter determined after any reduction provided in subsection (e) and by taking into account any transfer under this subsection as of the close of such quarter, and "(ii) the denominator of which is the total amount of wages (determined without regard to any limitation on amount) subject to contributions under the State unemployment compensation law for the most recent 4 calendar quarters for which data are available.

"(C) For purposes of subparagraph (A), the fraction set forth in this subparagraph with respect to any State for any calendar quarter is the following fraction determined for the preceding calendar year for which such fraction is the highest for the State: A fraction—

"(i) the numerator of which is the total amount of compensation paid under the State law during the calendar year, and

"(ii) the denominator of which is the total amount of wages (determined with regard to any limitation on amount) subject to contributions under the State unemployment compensation law for the calendar year."

(b) TRANSFERS TO FEDERAL UNEMPLOYMENT ACCOUNT.—

(1) IN GENERAL.—Section 902 of the Social Security Act is amended—

(A) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively, and

(B) by inserting after the section designation the following new subsection:

"(a)(1) Except as provided in paragraph (2), the Secretary of the Treasury shall transfer (as of the close of October 1992 and each month thereafter), from the employment security administration account to the Federal unemployment account, an amount determined by the Secretary to be equal to 10 percent of the amount by which—

"(A) transfers to the employment security administration account pursuant to section 901(b)(2) during such month, exceed

"(B) payments during such month from the employment security administration account pursuant to subsections (b)(3) and (d) of section 901.

If for any such month the payments referred to in subparagraph (B) exceed the transfers referred to in subparagraph (A), proper adjustments shall be made in the amounts subsequently transferred.

"(2) The Secretary of the Treasury shall make no transfer pursuant to paragraph (1) as of the close of any month if the Secretary determines that the amount in the

Federal unemployment account is equal to (or in excess of) the limitation provided in subsection (b)."

(2) REDUCTION OF CEILING.—Paragraph (2) of section 902(b) of such Act, as redesignated by paragraph (1) of this subsection, is amended by striking "five-eighths of 1 percent" and inserting "0.375 percent".

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 901(f)(2) of such Act is amended by striking "902(b)" and inserting "902(c)".

(B) Subsection (c) of section 902 of such Act, as redesignated by paragraph (1) of this subsection, is amended by striking "subsection (a)" and inserting "subsection (b)".

(C) Subsection (d) of section 902 of such Act, as redesignated by paragraph (1) of this subsection, is amended by striking "section 902(a)" and inserting "subsection (b) of this section".

(D) Paragraph (1) of section 903(a) of such Act is amended by striking "902(a)" and inserting "902(b)".

(E) Section 1203 of such Act is amended by striking "902(a)" and inserting "902(b)".

(c) BORROWING BETWEEN FEDERAL ACCOUNTS.—Title IX of such Act is amended by adding at the end the following new section:

"BORROWING BETWEEN FEDERAL ACCOUNTS

"SEC. 910. (a) IN GENERAL.—Whenever the Secretary of the Treasury (after consultation with the Secretary of Labor) determines that—

"(1) the amount in the employment security administration account, Federal unemployment account, or supplemental compensation and reemployment assistance account, is insufficient to meet the anticipated payments from the account during the next 3 months,

"(2) such insufficiency may cause such account to borrow from the general fund of the Treasury, and

"(3) the amount in any other such account exceeds the amount necessary to meet the anticipated payments from such other account during the next 3 months,

the Secretary shall transfer to the account referred to in paragraph (1) from the account referred to paragraph (3) an amount equal to the insufficiency determined under paragraph (1) (or, if less, the excess determined under paragraph (3)).

"(b) TREATMENT OF ADVANCE.—Any amount transferred under subsection (a)—

"(1) shall be treated as a noninterest-bearing repayable advance, and

"(2) shall not be considered in computing the amount in any account for purposes of the application of sections 901(f)(2), 902(c), and 905(b).

"(c) REPAYMENT.—Whenever the Secretary of the Treasury (after consultation with the Secretary of Labor) determines that the amount in the account to which an advance is made under subsection (a) exceeds the amount necessary to meet the anticipated payments from the account during the next 3 months, the Secretary shall transfer from the account to the account from which the advance was made an amount equal to the amount so advanced."

(d) REPEAL OF EXPIRED PROVISIONS.—

(1) Paragraph (2) of section 901(f) of such Act is amended—

(A) by striking "(A) Except as provided in subparagraph (B), the" and inserting "The", and

(B) by striking subparagraph (B).

(2) Section 901 of such Act is amended by striking subsection (g).

(3) Subsection (g) of section 904 is amended by striking all of such subsection that follows the first sentence.

(4) Paragraph (1) of section 905(b) of such Act is amended by striking ", in the case of any month before April 1972, to one-fifth, and in the case of any month after March 1972, to one-tenth," and inserting "to 10 percent".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning after September 30, 1992.

SEC. 412. GRANTS TO STATES FOR ADMINISTRATIVE FINANCING.

(a) IN GENERAL.—Section 301 of the Social Security Act is amended to read as follows:

"PAYMENTS TO STATES

"SEC. 301. (a) IN GENERAL.—Each State shall be entitled to payment under this title for each fiscal year in an amount equal to its allotment of the aggregate amount determined under subsection (b) for such fiscal year, to be used for the sole purpose of assisting the State in the administration of its unemployment compensation law (including administration pursuant to agreements under any Federal unemployment compensation law).

"(b) AGGREGATE ANNUAL PAYMENT.—

"(1) IN GENERAL.—Subject to subsection (d), the aggregate amount of payments to which the States are entitled under this title for any fiscal year shall be the sum of—

"(A) the basic unemployment insurance service grant, and

"(B) the additional workload grant.

"(2) GRANT AMOUNTS.—For purposes of paragraph (1), the grant amounts for fiscal year 1992 shall be—

"(A) for the basic unemployment insurance service grant, an annual amount equal to the amount determined by multiplying—

"(i) $1,080, by

"(ii) an average weekly insured unemployment level of 2,000,000, and

"(B) for the additional workload grant, an annual amount equal to the amount determined by multiplying—

"(i) $300, by

"(ii) the number by which the average weekly insured unemployment is projected to exceed 2,000,000 during such fiscal year, as estimated in the budget submitted by the President to the Congress for such fiscal year and in any subsequent revision of such projection submitted by the President to the Congress prior to the beginning of such fiscal year.

"(3) AVERAGE WEEKLY INSURED UNEMPLOYMENT.—For purposes of paragraph (2), the term 'average weekly insured unemployment' means the average weekly number of claims filed for regular unemployment compensation or Federal supplemental compensation for weeks of unemployment with respect to the applicable period, as determined by the Secretary of Labor on the basis of the reports made by the State agencies to the Secretary.

"(4) INFLATION ADJUSTMENTS.—

"(A) IN GENERAL.—In the case of fiscal year 1993 or any succeeding fiscal year, each amount contained in paragraph (2) shall be increased by the percentage determined under subparagraph (B) for such fiscal year.

"(B) DETERMINATION OF PERCENTAGE.—For purposes of subparagraph (A), the percentage determined under this subparagraph for any fiscal year is the percentage (if any) by which—

"(i) the applicable index for the most recent calendar year for which data are available, exceeds

"(ii) the applicable index for the base year.

"(C) APPLICABLE INDEX.—For purposes of subparagraph (B), the term 'applicable index' means—

"(i) in the case of the amounts contained in subparagraphs (A)(i) and (B)(i) of paragraph (2), the aggregate State employee wages (as determined by the Secretary of Labor on the basis of the most recent census data available), and

"(ii) in the case of the amounts contained in subparagraphs (A)(ii) and (B)(ii) of paragraph (2), the aggregate labor force, including the resident armed forces (as determined by the Secretary of Labor).

"(D) BASE YEAR.—For purposes of subparagraph (B), the term 'base year' means—

"(i) calendar year 1989, in the case of the index described in subparagraph (C)(i), and "(ii) calendar year 1990, in the case of the index described in subparagraph (C)(ii).

"(c) ALLOTMENT AND USE OF PAYMENTS.—

"(1) IN GENERAL.—Of the aggregate annual payment for any fiscal year under subsection (b)—

"(A) the basic unemployment insurance service grant amount shall be allotted to the States in accordance with the criteria set forth in section 302 and shall be used by such States solely for assisting in the administration of their unemployment compensation laws (including administration pursuant to agreements under any Federal unemployment compensation law), and

"(B) the additional workload grant amount shall be allotted on a quarterly basis to the States in accordance with the criteria set forth in section 302 and shall be used by such States for assisting in the administration of their unemployment compensation laws (including administration pursuant to agreements under any Federal unemployment compensation law).

"(2) OBLIGATION OF FUNDS.—Any amount made available to a State under this section shall remain available to such State for obligation only during—

"(A) the 36-month period beginning on the date on which such amount is made available, in the case of amounts obligated for capital acquisitions, or

"(B) the 18-month period beginning on such date, in the case of amounts obligated for any other purpose.

"(d) ANNUAL FEDERAL RESERVE FROM STATE ALLOTMENTS.—The Secretary of Labor may reserve not more than 10 percent of the aggregate basic unemployment insurance service grant under subsection (b)(1)(A) for any fiscal year to carry out activities directly in support of the Federal and State unemployment compensation laws, including national activities under clauses (i), (ii), and (v) of section 901(c)(1)(B) and under sections 906, 907, and 908."

(b) CONFORMING AMENDMENTS.—

(1) The heading of title III of such Act is amended to read as follows:

"TITLE III—GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE ADMINISTRATION".

(2)(A) Section 302 of such Act is amended—

(i) in the last sentence of subsection (a), by striking "amount appropriated therefor" and inserting the following: "the sum of the basic unemployment insurance service grant and additional workload grant amounts under section 301(b)(1)", and

(ii) in subsection (b), by striking "Out of the sums appropriated therefor, the" and inserting "The".

(B) The heading of section 302 of such Act is amended to read as follows:

"ALLOTMENTS FOR UNEMPLOYMENT INSURANCE ADMINISTRATION".

(3) Subparagraph (A) of section 901(c)(1) of such Act is amended in the matter preceding clause (i) by inserting "(or as are required under section 301)" after "appropriate".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning after September 30, 1991.

SEC. 413. REPORT ON METHOD OF ALLOCATING ADMINISTRATIVE FUNDS AMONG STATES.

(a) In General.—The Secretary of Labor shall submit to the Congress, within the 12-month period beginning on the date of the enactment of this Act, a comprehensive report setting forth a proposal for revising the method of allocating grants among the States under section 302 of the Social Security Act.

(b) Specific Requirements.—The report required by subsection (a) shall include an analysis of—

(1) the use of unemployment insurance workload levels as the primary factor in allocating grants among the States under section 302 of the Social Security Act,

(2) ways to ensure that each State receive not less than a minimum grant amount for each fiscal year,

(3) the use of nationally available objective data to determine the unemployment compensation administrative costs of each State, with consideration of legitimate cost differences among the States,

(4) ways to simplify the method of allocating such grants among the States,

(5) ways to eliminate the disincentives to productivity and inefficiency which exist in the current method of allocating such grants among the States,

(6) ways to promote innovation and cost-effective practices in the method of allocating such grants among the States, and

(7) the effect of the proposal set forth in such report on the grant amounts allocated to each State.

(c) CONGRESSIONAL REVIEW PERIOD.—The Secretary of Labor may not revise the method in effect on the date of the enactment of this Act for allocating grants among the States under section 302 of the Social Security Act, until after the expiration of the 12-month period beginning on the date on which the report required by subsection (a) is submitted to the Congress.

SEC. 414. ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION.

Section 908 of the Social Security Act is amended to read as follows:

"ADVISORY COUNCIL ON UNEMPLOYMENT COMPENSATION

"SEC. 908. (a) ESTABLISHMENT.—Not later than December 31 of 1991 (and of every 5th year thereafter), the Secretary of Labor shall establish an advisory council to be known as the Advisory Council on Unemployment Compensation (referred to in this section as the 'Council').

"(b) FUNCTION.—It shall be the function of each Council to evaluate the unemployment compensation program.

"(c) MEMBERS.—

"(1) IN GENERAL.—Each Council shall consist of 17 members as follows:

"(A) The Secretary of Labor, who shall be the chairperson.

"(B) 8 members appointed by the President.

"(C) 8 members appointed by the Congress.

"(2) QUALIFICATIONS.—Of the members appointed under subparagraph (B) or (C)—

"(A) ¼ shall be Members of the Congress,

"(B) ¼ shall be representative of the interests of business,

"(C) ¼ shall be representative of the interests of labor, and

"(D) ¼ shall be representative of the interests of State governments.

"(3) VACANCIES.—A vacancy in any Council shall be filled in the manner in which the original appointment was made.

"(d) STAFF AND OTHER ASSISTANCE.—

"(1) IN GENERAL.—Each Council may engage any technical assistance (including actuarial services) required by the Council to carry out its functions under this section.

"(2) ASSISTANCE FROM SECRETARY OF LABOR.—The Secretary of Labor may provide each Council with any staff, office facilities, and other assistance, and any data prepared by the Department of Labor, required by the Council to carry out its functions under this section.

"(e) COMPENSATION.—Each member of any Council—

"(1) shall be entitled to receive compensation at rates fixed by the Secretary of Labor (but not exceeding $100) for each day (including travel time) during which such member is engaged in the actual performance of duties vested in the Council, and

"(2) while engaged in the performance of such duties away from such member's home or regular place of business, may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

"(f) REPORT.—Not later than October 1 of the year following the year in which any Council is required to be established under subsection (a), the Council shall submit to the Congress a report setting forth the findings and recommendations of the Council as a result of its evaluation of the unemployment compensation program under this section.

"(g) TERMINATION.—Each Council shall cease to exist after the date on which the Council submits its report under subsection (f)."

SEC. 415. TREATMENT OF UNEMPLOYMENT COMPENSATION PROGRAMS.

The following programs shall be exempt from any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal year 1992 or any succeeding fiscal year:

(1) FEDERAL SUPPLEMENTAL COMPENSATION PROGRAM.—Payments under title I of this Act.

(2) FEDERAL JOB SEARCH ASSISTANCE.—Payments under title III of this Act.

(3) EMPLOYMENT SECURITY ADMINISTRATION.—Payments to States under title III of the Social Security Act.

○

Acting Chairman **Downey**. The subcommittee will come to order.

Today, we hold the first of two hearings on H.R. 1367, the Unemployment Insurance Reform Act of 1991. The second hearing will be held here, tomorrow, at 10 a.m. During the last 2 months, the subcommittee held four hearings on unemployment insurance and much has been learned about the problems of the unemployment insurance system.

The subcommittee learned that the extended benefits program is virtually nonexistent in this recession; a substantially lower fraction of the unemployed have been receiving benefits than in the past; ex-military personnel can receive only 13 weeks of benefits, while civilians can receive as much as 26 weeks; intensive job search assistance could be a cost-effective way of helping unemployed workers; the Federal Government has been underfunding administration of the unemployment insurance system for some time; many States do not build up enough reserves in good times to cover the outlays in bad times; and the Federal unemployment tax has become a highly regressive burden on small employers of low-wage workers.

In response to these problems I, along with Mr. Ford, Mr. Levin, Mr. Pease and Mr. Matsui, have introduced H.R. 1367, the Unemployment Insurance Reform Act of 1991.

This bill would authorize a new Federal supplemental compensation program to replace the existing extended benefits program; it would limit the time period over which eligible workers would be disqualified to 10 weeks; restore benefits to ex-military personnel to 26 weeks; authorize an intensive job search program; authorize an appropriated entitlement grant to States for administration of the system; authorize premium interest rates for States who build up reserves; and cover the cost of the bill by raising the Federal unemployment taxable wage base from $7,000 to $55,800 in 1992, while gradually lowering the tax rate from 0.8 to 0.3 percent.

H.R. 1367 is, to say the least, an ambitious bill. Passing it will not be easy, but the time is long since past when we should have reformed the unemployment insurance system. This year, I intend to respond swiftly to the needs of unemployed workers, so let us begin.

Before we begin, I have a request from Mr. Chandler to insert in the record a statement from the gentleman from the State of Washington.

[Mr. Chandler's statement follows:]

STATEMENT OF HON. ROD CHANDLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. Chairman. I would like to commend you on your efforts in drafting a proposal to reform our nation's unemployment insurance program. As our nation endures what we hope will be a short and mild recession, it is imperative that our nation's workers are provided with income support to help them through this difficult period.

At the same time, however, it is important that we not place additional hardships on employers. Any increase in employers' costs will only result in increased layoffs. I am hopeful that the subcommittee will keep this in mind as it continues to address the needs of our nation's workers.

Again, I commend the chairman for holding this hearing and look forward to hearing testimony from the witnesses invited to testify today and tomorrow.

Acting Chairman **Downey**. We are privileged to have, first from the Department of Labor, the Honorable Robert T. Jones, who is the Assistant Secretary for Employment and Training, and the Interstate Conference of Employment Security Agencies, Micheal Deisz, president and executive director for Job Service North Dakota.

First, we will hear, of course, from Mr. Jones.

STATEMENT OF HON. ROBERT T. JONES, ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING, U.S. DEPARTMENT OF LABOR, ACCOMPANIED BY CAROLYN GOLDING, DEPUTY ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING; AND MARY ANN WYRSCH, DIRECTOR, UNEMPLOYMENT INSURANCE SERVICE

Mr. **Jones**. Thank you, Mr. Chairman. I am accompanied today by Ms. Carolyn Golding, Deputy Assistant Secretary, and Mary Ann Wyrsch, the Director of the Unemployment Insurance Service.

We welcome the opportunity to appear before you this afternoon and to present our views of H.R. 1367. The administration, currently in viewing this bill, strongly opposes the provisions that are contained within it.

However, before discussing the specifics of this legislation, I would like to review with you the present unemployment situation and how the program is responding.

For the month of February, the national unemployment rate was 6.5 percent. While this rate is clearly unacceptable in terms of the unemployment it represents, when considered with January's rate of 6.2, it shows that the total unemployment for the second quarter may be well below the 6.8 percent forecast in the President's budget. Based on the most recent data, five States are now paying extended benefits—Alaska, Maine, Vermont, Michigan, and Rhode Island. We anticipate that five additional States will begin payment of extended benefits by the end of April.

Clearly the extended benefit program is responding to the recent increases in insured unemployment in precisely the manner in which it was designed.

The UI program is more solvent now than at any time since 1973. State accounts in the unemployment trust fund total $40 billion, representing nearly 2 percent of total wages and salaries—the highest percentage in 18 years. While we estimate that 4 to 6 States may have to borrow funds during the next 2 years to cover benefit costs, the Federal Unemployment Account has more than adequate reserves at $3.35 billion to cover the projected loans. Also the Employment Security Account has sufficient funds to cover all expected workload-related administrative costs. Finally, with a balance of about $7.2 billion, the Extended Unemployment Compensation Account is ample for handling expected outlays under the current EB program.

As noted in previous testimony, the recession has put an added strain on the delivery of services to unemployment insurance claimants. To provide the necessary resources for proper and efficient administration of State programs, the administration has requested a $150 million supplemental appropriation for the current fiscal year for a total request of more than $2.1 billion. After consultation with the Congress, the administration has concurred with designating this supplemental as an emergency under the Budget Enforcement Act.

Let me turn now to the proposals under the bill. First, the range of proposals reflect an underlying assumption that the current unemployment insurance program is somehow broken and in need of extensive repair. It is not broken. In fact, it is paying over $500 million per week to almost 4 million persons. In February 1991, 76 percent of the target population of job losers received benefits. Second, for over 55 years the program has efficiently performed its important but prescribed and targeted mission of providing temporary, partial wage replacement to experienced workers who become unemployed through no fault of their own and encouraging an early return to work. The administration believes that this proposal would significantly change that mission. There is no rationale for such a broad-based change to a system that is working well, and certainly no consensus for such a change.

Let me address the proposal found in title I to first federalize and then significantly expand the EB program. The administration believes that the EB program is operating effectively and that no revisions are necessary. The benefit exhaustion rate currently stands at about 29.2 percent, about equal to the mid-1988 levels and nowhere near the almost 41 percent exhaustion rate of the last recession. As referenced before, the EB program is now operating in five States and it is projected to go on in five more. This number is smaller than past recessions and it reflects the lower number of claims expected during this mild recession which will serve to reduce the need for extended benefits.

The proposal would establish a costly unnecessary new Federal program that could create disincentives for return to work. By eliminating the insured unemployment rate as the trigger for extended benefits, and substituting the total unemployment rate, which is less representative of the covered unemployed, and proposing the use of very liberal national triggers, the bill would have every State in the Union paying extra benefits this year, at a total cost of billions of dollars. The combined effect of these provisions is that the EB program would no longer be targeted to areas of high unemployment. The bill also creates a cumbersome three-tiered approach that would be very difficult for States to administer. In addition, since under the proposal the share of extended benefits paid from Federal funds would increase from 50 to 100 percent, the incentives for States to effectively manage the program would be eliminated. The administration believes the current State-Federal 50–50 funding mix is equitable and appropriate. This partnership helps to ensure that States manage the extended benefit program well and encourages the early return to work, and we oppose any change.

Title II of H.R. 1367 proposes a major series of additional Federal requirements for expanded eligibility and other items that override the authority of State laws on these issues. We think these proposals are seriously flawed, since the Federal Government would be removing from States options they now have with regard to determining the appropriate length of disqualification for those who leave their jobs voluntarily or for other reasons. The proposal would mandate that someone who voluntarily leaves a job would be eligible for benefits after 10 weeks. This is a matter that should be appropriately left to the States to decide. The bill ignores the fact that States have considered these issues and have chosen different options. In addition, the proposals contain implicit tax increases since States would be forced to raise taxes to meet the costs of these expanded eligibility requirements. It is particularly unwise to be increasing payroll taxes on employers at a time when we want to encourage employers to expand their payrolls and create new jobs. The administration opposes these Federal intrusions into areas that most appropriately should be the responsibility of State government.

While indirectly causing tax increases at the State level, the bill would also impose an extraordinary increase in the Federal UI tax. To finance the new extended benefit program, and other unneeded changes, the bill contains an ill-advised proposal for a sevenfold increase in the Federal tax base. This proposal would raise taxes on employers by an estimated $34 billion over a 5-year period, by boosting the taxable wage base from $7,000 per year to $53,400. At the same time, the tax rate used to finance extended benefits would be gradually reduced from the current 0.8 to 0.3 percent by 1997. It is generally undesirable to increase the payroll tax burden on both firms and workers during a recession. During a period of declining economic conditions, it makes little sense to adopt a policy that would result in higher overall costs to business and a decrease in total wage and salary income. It would even be less sensible to adopt a policy that would lower overall employment levels and wages when the avowed objective is to provide additional income protection for workers.

For 1992 alone, this proposal would remove $7.6 billion from the economy that could be used for needed job creation. At an average weekly wage of $415 reported for 1990, this translates into at least 275,000 jobs that would not be created. The administration's opposition to this increase is therefore reinforced by concern for the state of the economy and the negative impact that this proposal would have on recovery efforts. It is extraordinary that at this time of budget constraints, we are faced with proposals for such program liberalization and related proposals for employer taxes. We strongly oppose this tax increase because there is no programmatic justification for it, and such an increase would adversely affect the economy.

We also have difficulty with the provision containing solvency incentives, that is the payment of premium interest rates to States that maintain certain levels of balances in their accounts in the Unemployment Trust Fund. As indicated previously, the State trust fund accounts are in generally good condition and are holding up well in this recession. The bill's approach would create an unprecedented disparate treatment of State trust fund accounts, as compared to other trust funds for which the Federal Government has fiduciary responsibility, and would add interest costs to the Treasury. Most importantly, it is not at all clear whether the intended results could be achieved by paying such premium rates.

The administration supports the notion that enhanced job search assistance and other appropriate services be made available early in the spell of unemployment to individuals who can reasonably be expected to benefit from them. Our economic dislocation worker adjustment assistance programs under title III or JTPA are designed to achieve these ends. We have fostered a close linkage with the EDWAA service deliverers and the State unemployment insurance system in the identification of appropriate claimants for services and training. In addition, the public employment service and EDWAA grantees already perform the job search function. We, therefore, see no reason for the provisions in title III of the bill requiring the establishment of a new intensive job search program and the creation of job search assistance vouchers.

Another of the proposed Federal requirements is, in fact, not needed since the States currently have the authority to implement it. Under this proposal, States would be required to approve certain training for claimants after 10 weeks of benefit receipt. Under current law, States already have the latitude to allow UI claimants to receive benefits, beginning with the first week of the benefit receipt while in approved training. We think that no increase in training would result from this mandate. What would result, however, is additional regulations, paperwork, and oversight. We think that this is a much less desirable outcome than an accelerated return of the unemployed workers to productive employment.

The bill would also exempt extended benefits, job search assistance payments, and payment to States for UI administration under title III of the Social Security Act from sequestration under the Budget Enforcement Act. The administration strongly opposes this effort to shelter additional Federal programs from sequestration. Expanding the list of exempted programs would merely deepen the cuts facing those programs that have not been exempted from such sequestration.

With respect to administrative financing, the Department is committed to achieving three goals—stable and adequate funding for UI administrative costs prior to the beginning of the fiscal year; providing timely and adequate funding to the States for unanticipated workload increases; and an equitable and fair allocation of the resources among States that promotes innovation and cost-effective practices.

As noted above, the administration has agreed to a supplemental request to meet the unanticipated 1991 workload. We believe that we do need to examine our current method of determining funding needs for UI administrative costs to try and reduce the need for such supplementals.

As for former military personnel we would, indeed, support a program that equalizes payments of benefits for veterans if budgetary offsets are provided and if the payment of the enhanced benefits is limited to activated reservists, involuntarily separated personnel, and personnel extended beyond their regular release dates. We oppose the provision in H.R. 1367 that extends benefits to all ex-service members. The administration believes that would provide preferential treatment for ex-service members compared to the civilian work force.

Mr. Chairman, this completes our prepared statement and we would be happy to take any questions you may have.

Acting Chairman DOWNEY. Thank you, Mr. Jones, for your statement. The chairman has convened a meeting of the full committee at 1:30. If we could ask your indulgence we would like to recess the committee for approximately 25 minutes, I would assume, and then come back. Is that OK?

Mr. JONES. Yes, sir.

Acting Chairman DOWNEY. OK, fine, the subcommittee stands in recess.

[Recess.]

Acting Chairman DOWNEY. The subcommittee will come back to order. Thank you, very much, Mr. Jones, for waiting and to all of the other witnesses and guests of the committee for indulging us in this interruption.

You mentioned, Mr. Jones, that the extended benefit program was activated in five States, Alaska, Maine, Vermont, Michigan, and Rhode Island and that you expect five more States to activate by the end of April, Massachusetts, Oregon, Pennsylvania, Puerto Rico, and West Virginia. What do you say to the workers who have exhausted their benefits in States that have not been activated?

Mr. JONES. I think that the issue of benefit exhaustion is the same whether it is in a low-unemployment or high-unemployment State—the issue is to bring in as much readjustment and training as fast as we can, and to provide as much opportunity for both training and job placement as fast as we can. The issue is not to continue to make payments, but it is to bring training into play. I think the bottom line is exhaustions. Probably the most indicative figure at the moment is the 29 percent figure across the board. It continues to be one of the lower exhaustion rates that we have on a national basis, or have had, the last few years.

Acting Chairman DOWNEY. Are you comparing that with the 41 percent at the depth of or at the end of the worst recession in 1981-82? Is that correct?

Mr. JONES. That's correct.

Acting Chairman DOWNEY. What is a similar comparison with other recessions at this early stage?

Mr. JONES. That's the figure for the last recession—for other recessions, I don't know. We could go back and check for you. You might be interested in the fact that before that recession when the more stringent or, I should say, the far more liberalized EB program was in place, before 1982, the number was 33 percent and it was a higher exhaustion rate than there is right now. We seem to be at the lowest level of exhaustions.

[The following was subsequently received:]

U.S. Exhaustion Rates

(Regular State UI -- 12-month averages)

Ending Month	Exh. Rate	
06/1972	30.4	
07/1972	30.5	
08/1972	30.7	
09/1972	30.5	
10/1972	30.7	
11/1972	30.4	
12/1972	30.0	
01/1973	29.4	
02/1973	29.1	
03/1973	28.9	
04/1973	28.5	
05/1973	28.1	
06/1973	28.0	
07/1973	27.8	
08/1973	27.8	
09/1973	27.8	
10/1973	27.8	
11/1973	27.7	Peak
12/1973	27.7	
01/1974	28.1	
02/1974	28.2	
03/1974	28.3	
04/1974	28.8	
05/1974	29.5	
06/1974	30.0	
07/1974	29.8	
08/1974	29.4	
09/1974	29.5	
10/1974	29.6	
11/1974	30.0	
12/1974	31.0	
01/1975	31.7	
02/1975	32.7	
03/1975	34.0	Trough
04/1975	35.9	
05/1975	37.7	
06/1975	38.2	
07/1975	37.8	
08/1975	37.3	
09/1975	37.3	
10/1975	37.4	
11/1975	37.4	
12/1975	37.8	
01/1976	38.0	
02/1976	38.1	
03/1976	38.1	
04/1976	37.5	
05/1976	36.7	
06/1976	36.4	
07/1976	36.6	
08/1976	37.3	
09/1976	37.7	
10/1976	37.8	
11/1976	38.3	
12/1976	37.8	
01/1977	37.3	
02/1977	37.1	
03/1977	36.8	
04/1977	36.5	
05/1977	35.7	
06/1977	35.2	
07/1977	34.6	
08/1977	33.8	
09/1977	33.4	
10/1977	33.3	
11/1977	33.0	
12/1977	32.5	
01/1978	32.3	
02/1978	31.6	
03/1978	30.8	
04/1978	30.3	
05/1978	30.1	
06/1978	29.7	
07/1978	29.5	
08/1978	29.1	
09/1978	28.4	
10/1978	27.8	
11/1978	27.3	
12/1978	26.7	
01/1979	26.3	
02/1979	25.8	
03/1979	25.8	
04/1979	25.7	
05/1979	25.9	
06/1979	25.8	
07/1979	25.7	
08/1979	26.1	
09/1979	26.2	
10/1979	26.5	
11/1979	26.5	
12/1979	26.7	
01/1980	26.8	Peak
02/1980	27.2	
03/1980	27.4	
04/1980	28.0	
05/1980	28.3	
06/1980	29.1	
07/1980	30.0	Trough
08/1980	30.8	
09/1980	32.2	
10/1980	32.9	
11/1980	32.8	
12/1980	33.2	
01/1981	32.8	
02/1981	33.2	
03/1981	33.4	
04/1981	33.4	
05/1981	33.6	
06/1981	33.4	
07/1981	33.0	Peak
08/1981	32.8	
09/1981	32.2	

U.S. Exhaustion Rates

(Regular State UI -- 12-month averages)

Ending Month	Exh. Rate	
10/1981	31.7	
11/1981	32.1	
12/1981	32.4	
01/1982	32.8	
02/1982	33.3	
03/1982	33.9	
04/1982	34.5	
05/1982	34.7	
06/1982	34.9	
07/1982	34.9	
08/1982	35.7	
09/1982	36.2	
10/1982	36.8	
11/1982	37.9	Trough
12/1982	38.5	
01/1983	39.4	
02/1983	39.8	
03/1983	40.2	
04/1983	40.3	
05/1983	40.4	
06/1983	40.6	
07/1983	40.8	
08/1983	40.8	
09/1983	40.3	
10/1983	40.0	
11/1983	39.2	
12/1983	38.4	
01/1984	38.1	
02/1984	37.7	
03/1984	36.7	
04/1984	36.0	
05/1984	35.6	
06/1984	35.2	
07/1984	35.3	
08/1984	34.8	
09/1984	34.8	
10/1984	34.9	
11/1984	34.4	
12/1984	34.2	
01/1985	33.8	
02/1985	33.4	
03/1985	33.2	
04/1985	33.0	
05/1985	32.5	
06/1985	32.4	
07/1985	32.0	
08/1985	31.5	
09/1985	31.5	
10/1985	31.3	
11/1985	31.0	
12/1985	31.2	
01/1986	30.9	
02/1986	30.9	
03/1986	30.6	
04/1986	30.6	
05/1986	30.9	
06/1986	30.9	
07/1986	31.0	
08/1986	31.3	
09/1986	31.7	
10/1986	31.8	
11/1986	31.9	
12/1986	32.2	
01/1987	32.1	
02/1987	32.2	
03/1987	32.4	
04/1987	32.3	
05/1987	32.2	
06/1987	32.0	
07/1987	32.2	
08/1987	31.9	
09/1987	31.5	
10/1987	31.1	
11/1987	31.2	
12/1987	30.6	
01/1988	30.3	
02/1988	30.2	
03/1988	30.0	
04/1988	29.8	
05/1988	29.7	
06/1988	29.6	
07/1988	29.1	
08/1988	29.2	
09/1988	28.9	
10/1988	28.9	
11/1988	28.9	
12/1988	28.5	
01/1989	28.7	
02/1989	28.1	
03/1989	27.8	
04/1989	27.7	
05/1989	27.5	
06/1989	27.7	
07/1989	27.9	
08/1989	28.1	
09/1989	28.0	
10/1989	28.2	
11/1989	28.1	
12/1989	28.0	
01/1990	28.2	
02/1990	28.2	
03/1990	28.3	
04/1990	28.2	
05/1990	28.3	
06/1990	28.4	
07/1990	28.1	
08/1990	28.2	
09/1990	28.4	
10/1990	28.6	
11/1990	28.8	
12/1990	29.4	
01/1991	29.9	
02/1991	30.4	

Acting Chairman DOWNEY. When you persist in talking about the worst recession since the end of World War II at its deepest point, we inevitably are going to look a little better, thankfully.

Let me give you an example of the State of Maryland where the insured unemployment rate has increased nearly 50 percent in the last 3 months. For people who are exhausting their benefits, can they just go out and find a job?

Mr. JONES. I would assume that the ability to find a job, obviously number one, depends on the general growth in the labor market; and number two, whether or not at some point those exhaustions are due to people who are structurally in jobs that are not going to recreate themselves. And that they need to get into retraining and into the EDWAA program.

Acting Chairman DOWNEY. Does the administration oppose the provision of my bill that mandates intensive job search?

Mr. JONES. We oppose the methodology of that issue. We don't oppose the issue of both job search and retraining as put forward in title III of EDWAA.

Acting Chairman DOWNEY. What is the administration offering these workers? Maybe you don't see these people as I do, or as often as I do. I have a very hard time saying to them, I am sorry about this 26 weeks. After all, we only have $8 billion in the trust fund and we can't afford to pick up an additional 13 weeks or an additional 26 weeks. Isn't there something that pulls at you about these workers and about the fact that there is that much money in the trust fund?

It would be one thing if we were desperately behind in the amount of money in the trust fund. I still don't think that would be an excuse, frankly, but it strikes as being especially hard, given the fact that there is so much money in the trust fund?

Mr. JONES. Of course, any time that anyone is either unemployed or, in fact, has exhausted benefits it is always a major concern to each of us on an individual basis. And certainly while money is in the trust fund, that is a valid question. But the money is in the trust fund for a reason. It is in the trust fund to also ensure that if rates go up, that other people are covered by the program and not just the additional benefits.

Acting Chairman DOWNEY. You said the extended benefit program is working "in precisely the manner in which it was designed." Yet, the extended benefit program did not work in 1981 and 1982 in the recession as precisely as it was designed because we had to enact a supplemental compensation program.

I find it a little troubling to say that we think that it worked when it did not work originally as it was designed and now, you have so many people exhausting benefits.

Let me ask you a more hypothetical and theoretical question. Does this administration believe that if we were to extend benefits beyond the 26 weeks that this may be some discouragement to workers to go find jobs? Is there a belief that if we extend benefits beyond 26 weeks that people will not look for jobs as zealously as if the benefits did not exist?

Mr. JONES. I think number one, if it is a purely academic and hypothetical question, the answer is always yes. There are studies that will absolutely show you that the longer the period of benefits, the slower the rate of adjustment.

Acting Chairman **Downey**. Right.

Mr. **Jones**. Second, for a significant number of the people in our current system, the issue happens to be at what point training——

Acting Chairman **Downey**. Excuse me. I would ask those guests here not to comment during the witness' statements.

Mr. Jones.

Mr. **Jones**. The second point, as was demonstrated by the Congress in its implementation of the EDWAA program, was the requirement to get people into training at the 13th week, for those folks who are going to come off the other end, because there is a very important linkage in there to make sure that those two are paired together.

Acting Chairman **Downey**. How do you then respond to the point that 60 percent of the people who have exhausted the benefits still aren't back to work 10 weeks after the exhaustion of the benefits? It seems to fly in the face of the argument that somehow returning to work is an option to many people, and they are just waiting to run out of benefits.

You are not making the point, are you, that people are waiting out the duration of unemployment benefits to go back to work? That is not your point?

Mr. **Jones**. No. I think that there are several things. At least 25 percent of the exhaustees are reemployed within 4 weeks of the exhaustion and 40 percent of them within 10 weeks. Then the others break down into several groups of people, some of which continue to wait for reemployment in that field, even if it doesn't exist; some leave the labor force. There are a series of other issues, including training, that are involved. But I don't think that it is that they are all sitting around waiting, nor would we argue that they are without any response at all.

Acting Chairman **Downey**. Let me ask you about the proposal. You made an interesting comment and I realize that we are not going to agree on tax questions, the administration is opposed to them.

In analyzing my program, I think that you had the sense that somehow the tax took effect during the recession. It is, after all, the Labor Department that is predicting that this recession will not last that long, and at least for your own edification the tax would not be triggered until after the prediction of your recession would be over.

Second, you made an interesting point about money being taken out of the economy. How is it taken out of the economy if we take it out of the hands of the employers and put it into the hands of the employees? Why is that harmful to the economy?

Mr. **Jones**. The first issue is that we think that the recession will be fairly short and the termination soon. It is also clear, as you know, that unemployment tends to linger on for some months after that. The projections, in fact, in the administration's economic assumptions carry higher levels of unemployment into 1992, and that is when this tax affects it directly, and it does have a direct impact on payroll.

On the second part of your question, the prime issue here is that if you are trying to, in fact, create additional jobs in the economy or invest in infrastructure in the businesses or inventory or plant expansion or anything else, the one place you are taking money from is the employer who would not have the ability to create jobs, et cetera. If he is either going to not be able to hire new people or to pay wage rates that he would normally pay or to expand his business in any way, it is a hell of a hard deal then to keep the economy growing and provide the job base that is there.

Acting Chairman DOWNEY. Well, let me ask you a question. What do you think the unemployed workers do with these additional weeks of unemployment benefits? They spend it.

Mr. JONES. Of course, they do.

Acting Chairman DOWNEY. And in a demand-driven economy is this a harmful thing to the economy?

Mr. JONES. No, but the issue is, does that in the same time period circle back in and have the same effect on the job market as it would otherwise, and the answer is, no.

Acting Chairman DOWNEY. And what shred of evidence can you suggest that this tax, redistributed to individuals, would have a deleterious effect?

Mr. JONES. I would point you to a study by Ronald Ehrenberg and Robert Smith in Modern Labor Economics that there is a distinct outcome suggesting that payroll tax impacts employment and employment investment directly.

[The information follows:]

[Excerpt From Modern Labor Economics]

ers, facing unfilled positions, would be forced to raise their real wage offers to eliminate the job vacancies. In contrast, if the real wage were above W_0, employers would face an excess supply of applicants. The number of individuals willing to work would exceed the number of employees firms wanted to hire, and employers would eventually realize that they could reduce their real wage offers and still attract the necessary workers.[7]

Policy Application: Who Bears the Burden of the Payroll Tax?

In the United States several social insurance programs are financed by payroll taxes. Employers, and in some cases employees, make mandatory contributions of a fraction of the employees' salaries, up to a maximum level (or taxable wage base), to the social insurance trust funds. For example, the social security retirement, disability, and medicare programs (OASDHI) are financed by a payroll tax paid by both employers and employees, while in most states unemployment insurance and workers' compensation insurance programs are financed solely by payroll-tax payments made by employers. It is not clear just why payroll taxes on *employers* are so heavily used in the social insurance area. There seems to be a prevailing notion that such taxes result in employers' "footing the bill" for the relevant programs, but this is not necessarily the case.

With our simple labor market model, we can show that the party making the social insurance payment is not necessarily the one that bears the burden of the tax. Suppose for expository convenience that only the employer is required to make payments and that the tax is a fixed dollar amount ($X) per employee, rather than a percentage of payroll. Now consider the demand curve D_0 in Figure 3.2, which is drawn in such a way that desired employment is plotted against the real wage *employees receive*. Prior to the imposition of the tax, the wage employees receive is the same as the wage employers pay. Thus, if D_0 were the demand curve before the tax was imposed, it would have the conventional interpretation of indicating how much labor a firm would be willing to hire at any given wage. However, *after* imposition of the tax, employer wage costs would be $X above what employees received. Thus, if employees received W_0, employers would face costs of $W_0 + X$. They would no longer demand E_0 workers; rather, because their costs were $W_0 + X$, they would demand E_2 workers. Point A would become a point on a *new* demand curve, formed when demand shifted down because of the tax (remember, the wage on the vertical axis of Figure 3.2 is the wage *employees receive*, not the wage employers pay). Only if employee wages fell to $W_0 - X$ would the firm want to continue hiring E_0 workers—for then *employer* costs would be the same as before the tax. Thus, point *B* would also be on the new, shifted demand curve. Note that, with a tax of $X, the new demand curve (D_1) is parallel to the old one and the vertical distance between the two is *X*.

Now the tax-related shift in the demand curve to D_1 implies that there would be an excess supply of labor at the previous equilibrium real wage of W_0. This surplus of labor would create downward pressure on the real wage, and this downward pressure would continue to be exerted until the wage fell to W_1, the point at which the quantity of labor supplied just equaled the quantity demanded. At this point, employment would also have fallen to E_1. Thus, ***employees*** **bear part of the burden of the payroll tax in the form of** ***lower wage rates and lower employment levels.*** The lesson is clear: the party legally liable to make the contribution (the employer) is not necessarily the one that bears the full burden of the actual cost.

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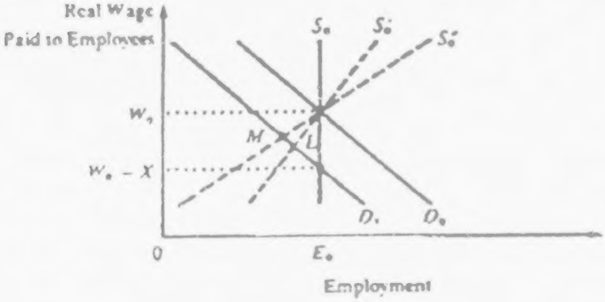
[7] The reduction in real wages need not occur through a reduction in money wages. Rather, all that is required during a period when prices are rising is that money wages remain constant or rise less rapidly than product prices.

Figure 3.2, however, does suggest that employers bear at least *some* of the tax, because the wages received by employees do not fall by the full amount of the tax ($W_0 - W_1$ is smaller than X, which is the vertical distance between the two demand curves). The reason for this is that, with an upward-sloping supply curve, employees withdraw labor as their wages fall, and it becomes more difficult for firms to find workers. If wages fell to $W_0 - X$, the withdrawal of workers would create a labor shortage that would serve to drive wages to some point (W_1 in our example) between W_0 and $W_0 - X$. Only if the labor supply curve were *vertical*—meaning that lower wages have no effect on labor supply—would the *entire amount of the tax* be shifted to workers in the form of a decrease in their wages by the amount of X, as shown in panel a of Figure 3.3.

(a) Differences in Slope of Supply Curve



(b) Differences in Slope of Demand Curve

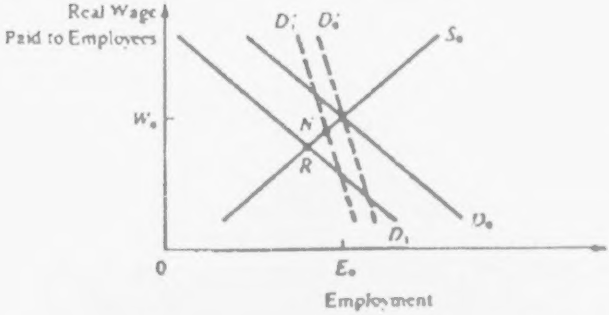


FIGURE 3.3 Conditions That Affect the Shifting of an Employer Payroll Tax

In general, the extent to which the labor *supply curve* is sensitive to wages determines the proportion of the employer payroll tax that gets shifted to employees' wages. The less responsive labor supply is to changes in wages, the higher the proportion of the tax that gets shifted to workers in the form of a wage decrease. Panel a of Figure 3.3 shows that a payroll tax on the employer will depress employee wages more with supply curve S_0' than with supply curve S_0'' (the wage corresponding to point L is lower than that corresponding to point M). It must also be pointed out, however, that to the degree employee wages do *not* fall, employment levels *will*: employment losses with supply curve S_0'' are larger than with curve S_0'. When employee wages do not fall much in the face of an employer payroll tax increase, employer labor costs are increased—and this increase reduces the quantity of labor they demand.

The other major influence on the extent to which payroll taxes are shifted to employees is the shape of the demand curve. If the demand curve were very sensitive to changes in labor costs, there would be relatively large employment losses and strong downward pressures on employee wages. On the other hand, if employer demand were not very responsive to labor costs, both employment losses and employee wage changes would be small. These two conclusions are illustrated by the two sets of demand curves in panel b of Figure 3.3. The wage and employment levels for each initial demand curve (D_0 and D_0') are assumed to be the same (W_0 and E_0). When an employer payroll tax of X is imposed, it shifts *both demand curves down by the vertical distance of* X, so that the new curves are D_1 and D_1'. Point N, which lies on the demand curve D_1', where employment is relatively insensitive to wages, is a lot closer to W_0 and E_0 than is point R—the intersection between the supply curve and the demand curve D_1, where demand is more sensitive to wages.

A number of empirical studies have sought to ascertain what fraction of employers' payroll tax costs are actually passed on to employees in the form of lower wages or lower wage increases. Although the evidence is by no means unambiguous, two recent studies concluded that less than half of employers' payroll tax contributions are actually shifted onto labor in the form of real wage decreases.[8]

MODIFIED MODELS OF LABOR DEMAND

Monopoly in the Product Market

We have assumed so far that firms take product prices as given. If a firm faced a downward-sloping demand curve for its output—so that as it expanded employment and output, its product price fell—then the marginal revenue (MR) it received from the last unit of output it produced would not be the product price (P). Rather, the marginal revenue would be less than the product price because the lower price

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[8] Ronald G. Ehrenberg, Robert Hutchens, and Robert S. Smith, *The Distribution of Unemployment Insurance Benefits and Costs*, Technical Analysis Paper No. 58, ASPER, U.S. Department of Labor, October 1978. Daniel Hamermesh, "New Estimates of the Incidence of the Payroll Tax," *Southern Economic Journal* 45 (February 1979): 1208–19.

Acting Chairman **Downey**. I am not familiar with that study, why don't you tell me a little bit about it?

Mr. **Jones**. I would be happy to provide it to the committee.

Acting Chairman **Downey**. Are you prepared to tell me about it now?

Mr. **Jones**. Not the direct impact.

Acting Chairman **Downey**. Is anybody at the table prepared to tell me about it?

Mr. **Jones**. No.

Acting Chairman **Downey**. Can I ask you a question about listening to your own advice? I mean the Department of Labor has suggested to us that job search, intensive job search seems to pay off. And that one of the concerns I have is that—this is a Labor Department study—that you are not in a position of following your own advice. Maybe you can explain that to me. Why is it that the desire on the part of the committee to do intensive job search is something that you object to in our bill?

Mr. **Jones**. Actually, to the desire to do intensive job search, we don't disagree with. The study I assume you are referring to is the New Jersey experiments where we had demonstrated some positive impact by increased job search. In fact, in that case what we had done is provide incentives for the outcome of the job search and not for the process itself.

And second, the issue we have with your bill is not over job search, it is over the method. It is over whether or not a bonus of $170 on a voucher basis creates the necessary outcome. We don't think there is any evidence that it would. We think the ability to provide that is already in place, and that is not the way to increase the efficacy of that.

Acting Chairman **Downey**. How would you increase it? How would you suggest to the committee that we do intensive job search?

Mr. **Jones**. I think that the system is already in place with the employment service and the EDWAA program to provide job search. One of the most productive things that we have done——

Acting Chairman **Downey**. I forget, have we been increasing the amount of money in the employment service?

Mr. **Jones**. Not the employment service. We have increased the amount of money in the EDWAA program twofold and threefold.

Acting Chairman **Downey**. What about the employment service?

Mr. **Jones**. The employment service is reduced about $50 million in the proposed budget at the moment.

Acting Chairman **Downey**. It strikes me and others as somewhat inimical to the needs of individual workers that not only is the administration ignoring the fact that there are literally tens of thousands of people who are exhausting their 26 weeks of benefits, but that the committee's attempts to deal with some of these problems are being objected to by the administration.

I am sorry for that, but it is not surprising.

Mr. Shaw.

Mr. **Shaw**. Thank you, Mr. Chairman.

Mr. Jones, you have, I am sure, seen as I have seen, long unemployment lines in Michigan, and Indiana, to name a couple of States with long unemployment lines. We have also heard a great deal of debate with regard to the administrative expenditures of the Federal Government and how we have been holding them back.

Would you comment as to what is the problem out there? Is it a question of needing to put out more money, or is it a question of inefficiencies? Exactly what is the problem? Why do we have those lines out there? Why aren't the people getting the benefits on time?

Mr. JONES. Certainly some part of it, Mr. Shaw, is always related to the amount of administrative money that is in the system. And the administration, as you know, requested supplemental funds to add to that part of it. It is, however, not the only issue by a long shot.

We have some States that have systems in place for both receiving claims and processing claims that are outmoded and have not kept pace with other States and take a significant amount of time. When there is an up-tick in unemployment, they don't process claims very effectively.

We have a number of States that have invested their money in small and inappropriate offices around the State, and are not using their manpower in the right places. We have budget crunches in some States right now; some States have hiring freezes on—even if the money is there, as it is in New York. They have not been able to use it to hire the staff that is in place until just in the last week or so.

So there is a series of things that have to do with whether or not that system works efficiently and the funding of it is only one, and perhaps a smaller part of the issue.

Mr. SHAW. Well, what are the differences between the distribution centers? Are some States doing it efficiently and others inefficiently?

Mr. JONES. Yes.

Mr. SHAW. Could you give us some examples and reasons for inefficiency and perhaps some examples of efficiency?

Mr. JONES. One of the States that concerns us—with whom we have communicated and have, in fact, teams of people now meeting—is the State of Michigan. They have not done a particularly good job. And Michigan is a wage request State still and employers don't report wage data for UI claims purposes as they do in most other States. It is one of the least automated State UI systems that we have. Most of their claims processing and payment activities are done manually in local offices and it takes enormous time. UI claims procedures are antiquated and require claimants to report to local offices in person.

So all of these things, along with new systems they have put in place that are not operating, tend to create enormous backlogs in that process.

Now, other States have gone to highly automated systems, in fact, telephone claims and processes. Massachusetts and New Jersey have some of the highest rates of both claim receipt and claim payment as any place in the country.

So there is a very wide difference out there in how the State manages the system, and if there is any flux, it shows up dramatically at a time like this when there is an up-tick and unemployed people come in, and then the system just breaks down instantly.

Mr. SHAW. The bill under consideration has a tax impact over 5 years, I believe it is $27 billion; is that correct?

Acting Chairman DOWNEY. Right.

Mr. SHAW. A $27 billion tax increase over a 5-year period. What effect would that have on employment levels, if any?

Mr. JONES. Well, as we indicated in our testimony, the impact, as we see it, is a substantial reduction in employer payrolls, and an impact directly on employment on a 1-year and then a projected 5-year basis. About 275,000 jobs would be impacted in the first year of this program. I don't know that any of us can predict exactly how an employer will behave and what the direct impact of that is. But I think it's important for us to look at a couple of examples. Under the current law, per worker, employers pay $56 for the insurance, and under the proposed bill for an average-wage person it will go up to $188. Now, if you do that for a 50-worker company that is $2,800 versus $9,375. That money has got to come from some place. The difference for a 1,000-worker company, which is a larger size, is $56,000 versus $187,000. Now, that is a direct impact on the payrolls of that company.

We took a look this morning at the Grumman Corp. who currently pays $840,000 for a year; they would pay, in 1992, $3,375,000 for a difference of $2.5 million. Now, that money comes from some place and that is money that is not going into basic investment within that corporation, or some place in job creation or wages.

Mr. ANDREWS. Would the gentleman yield for just one moment?

Mr. SHAW. I will yield to the gentleman.

Mr. ANDREWS. Tell me again the statistics on the Grumman Co. and then I want to ask you, what kind of conclusions are you trying to draw from that? Is that indicative of what all companies that size will pay?

Mr. JONES. Oh, no, that depends purely on their payroll and the average payroll.

Mr. ANDREWS. I guess I am asking what am I to make of your example? Why do you tell me about the Grumman Co?

Mr. JONES. We just used several examples of company sizes, and we are trying to equate what the impact of the tax is on the company payroll at any given time.

Mr. ANDREWS. Well, is it the impact just on the Grumman Co. or are you saying that it would be that kind of impact on all companies that size?

Mr. JONES. Absolutely, all companies. These are just examples that we tried to put together to get some kind of understanding of what the impact would be. But clearly, they are for all companies across the board. The way the bill is constructed now that is, in fact, true for companies in very low-wage States, and low-unemployment States as well as high-wage States.

Mr. SHAW. If I may reclaim my time, I would suggest that possibly the gentleman picked the Grumman Co. because he wanted the chairman to feel comfortable in knowing something about the impact on a company in New York.

Acting Chairman DOWNEY. Yes, the Labor Department is certainly clever, are they not?

Mr. ANDREWS. There was a reason for my question. Because you know, I think they are clever to a fault, frankly. I think what we are really interested in is the broadest possible brush here and not companies that just happen to be in the chairman's district. I guess what——

Mr. Shaw. It is a question of taking a certain sized payroll and a certain company. The witness is making this a new tax, this tax is going to take money out of the company or any company that has a payroll. That is it. I think that is the point he wanted to make and I think that is the point he did make.

Acting Chairman Downey. Mr. Andrews.

Mr. Andrews. I have no more questions, Mr. Chairman.

Acting Chairman Downey. Mr. Grandy.

Mr. Grandy. Mr. Chairman, before I start, I would like to ask unanimous consent to insert a statement by Mr. Chandler into the record.

Acting Chairman Downey. It has been done.

Mr. Grandy. I thank the Chair.

Mr. Jones, let me follow on the line of questioning that my colleague, Mr. Shaw, brought up. The question of expanding the base from $7,000 to $53,000 and reducing the rate has, on the face I suppose, a certain amount of appeal. It looks like it is going to be perhaps a reduction. But really, in a sense, are we not creating a perverse incentive there to keep wages low, or to go to more kinds of part-time shifts, or to use your work force creatively, or perhaps I should say, insidiously to not have to pay at these higher levels?

Do I read that right? Is there a danger that there could be some mischief between the employer and the employee here?

Mr. Jones. I don't know that we can predict exactly what employer behavior is going to be when this kind of a burden is put in place. The net result of the tax, over the 5-year period though, is a positive impact on very low-wage jobs and low-wage industries, and a very negative impact on medium and higher-wage industries. Clearly, the tax is going to hit higher wage industries.

Mr. Grandy. Well, I grant you that, but this committee, and I am sure any two members who get together, will argue what is a high wage, what is a middle wage, and what is a low wage.

Some of the figures that have been worked out on the Downey bill, say that in 1992 the employer of a worker earning about $23,000 would be paying $172 in FUTA taxes, as opposed to the $56 he is paying now, a 200-percent increase.

Now, $23,000 I think can be debated as to whether it is a medium wage or a low wage, but it is certainly not a high wage in this day and age. I wonder about the employer in that range—and these guys are the guys that I tend to represent—whether or not this tax is going to be a disincentive even in areas that are not as heavily impacted, as perhaps New York or Michigan, would you agree there?

Mr. Jones. Yes, indeed. There is no question in that the perverse impact at that level is for him to pay a higher tax for the higher wage jobs than for the lower wage jobs. There is no question. Again, I don't know what his response to that is going to be or how that business is constructed.

I also don't know the impact, necessarily, just of the wage base itself, of taking that much of a bite out of the system.

Mr. **Grandy**. That troubles me. Because this Congress, in the last session of Congress, raised the minimum wage, not as much as some people want, but found at least a reason to raise it to $4.25. I am wondering if, in a sense, we are not going backward now with something like this, if we are creating disincentives to pay higher wages because of the tax burden on the employer?

Mr. **Jones**. There is probably a series of things that would raise that question—increases in FICA, increases here, increases in a couple of other places that have those kinds of impacts. At some point it is going to pay a price. Now, whether it is just on a low-wage job or a part-time job instead of a full-time job, or fewer people, that is hard to determine. But the impact can clearly be in that arena.

Mr. **Grandy**. Mr. Chairman, before you leave, are we going to come back after this? What is the disposition of the Chair?

Acting Chairman **Downey**. Mr. Grandy, we are going to run to vote. We have been keeping the witnesses too long because of our recess. It is my intention that Mr. Levin would Chair the subcommittee. I will return and then we will go on with the other witnesses.

Mr. **Grandy**. All right, then I will yield back now.

Thank you, Mr. Chairman.

Thank you, Mr. Jones.

Mr. **Levin** [presiding]. Sorry, I am not entirely sure what has been asked and what not. I have read your testimony.

Let me first talk to you about the administrative financing. You say the Department is committed to achieving three goals. One is stable and adequate funding for UI administrative costs, prior to the beginning of the fiscal year. Let me just tell you what is happening under the present system in one set of places. It is the opposite of stable and adequate, and that is in Michigan. I have been to an unemployment comp office there several times. This is now March. It is almost April. There is no additional money yet for administrative funding. And you have overworked employees working saturdays at overtime; you have documents in cardboard boxes that have not been filed—now they are up to date, but when I was there the week before last they were in cardboard boxes. When people came in to file a claim, if they thought a document relating to that person was in the box, or one of the boxes, they would have to manually go through and try to find those documents.

Now, that is the present system. We have a system, a proposal to end that. So you have mandatory administrative costs funding. Now, you tell me how you can defend the present system? You tell me how you can defend it?

Mr. **Jones**. The issue, Mr. Levin, is two things. One is how you would manage such a system. I think our goals and the goals of the Congress are largely the same in terms of the necessity to maintain a continual funding expectation and a management process for that system. And just in terms of proposals the issue is simply, how do we construct policy and processes to do that, that are rational?

But the bigger part of the issue, I want to take difference with, is the availability of money. It is only a small part of this issue. In fact, for the last several years, we have been funding that system at 100 percent of its workload or close to it. In some States, and

Michigan is one of those States, the ability to manage the system continues to be somewhat frayed. Those boxes you describe and some of the processes that they are using in Michigan are a serious problem.

They are not going to change this month or in the next 2 weeks when we put out the supplemental moneys that the Congress and the administration have agreed to. Those processes that we talk about are not going to change. Hopefully they can put some more people into place and that is good, but Michigan is still a wage-request State and is going to slow up the whole process no matter what we do.

It is one of the least automated States that we have in the system. They have UI claims procedures that are antiquated and require claimants to report to local offices in person, one by one. They have newly designed mail claims forms that are complex and that are taking an enormous amount of time up there.

Now, those things are not going to change because we put in the small supplemental moneys that we have just taken care of in the Congress. In 1992, the money is 100 percent funded and it is not going to change at that point.

We have staff all over the State of Michigan right now, working with them and trying to get their attention on the changes that need to be made. This is not a current issue. It has been going on for some time. I think that, as much as funding, is a valid issue and we have to address that on a year-to-year basis and figure out how to solve that problem. We also have to deal with it in a way to be sure that the States, in fact, are processing their claims in a way that is efficient and can be done.

Mr. LEVIN. Look, I don't disagree with you that there has to be improved efficiency wherever possible. But that doesn't address present needs.

You, yourself, by putting money into a supplemental have acknowledged underfunding.

Mr. JONES. Absolutely.

Mr. LEVIN. OK, now, while that period of underfunding goes on, people get hurt. People get hurt. I don't know how you defend $1 billion in a fund set aside for administrative purposes and it is almost the end of March and there is no Federal response to underfunding. How do you defend that to someone—I tried to reach the Madison Heights umemployment office for 4 hours one Friday and the phones were busy—now, how do you defend that system to someone who is trying to get through for a job search or to ask a question about their check?

Now, don't respond in generalities. I am a claimant. I can't get through or I wait 5 weeks for a check. Now, what is the answer? In Michigan, people are waiting 5 weeks for their check. Now, what is the answer to me? You tell me the answer. I am a claimant. They ask me that question.

I don't know how to answer them. You give me—now, I am a claimant—you give me the answer.

Mr. JONES. I don't run that system in Michigan. The State of Michigan does.

Mr. LEVIN. You fund it. You fund it.

Mr. JONES. At $2.1 billion.

Mr. **Levin**. No, you underfunded it $150 million.

Mr. **Jones**. Against $2.1 billion.

Mr. **Levin**. All right, is the 150 needed?

Mr. **Jones**. Absolutely.

Mr. **Levin**. Then why is it April before the money is allocated?

Mr. **Jones**. Because that is the time the budget process and the Congress need to get it there. The request was made in January.

Mr. **Levin**. Good.

Mr. **Jones**. Right.

Mr. **Levin**. Why not have a system which responds automatically where there is need; where the Labor Department certifies need?

Mr. **Jones**. Congressman, we don't disagree with the need to get the money there as quickly as possible. The issue is, in this case, is whether or not that is the only thing that is causing those people to receive a check 5 weeks late, and it is not.

Mr. **Levin**. I am not saying it is. I am not. But you are ducking by saying there is something else. I am saying why not take care of that?

Mr. **Jones**. The question of the money being there on time is a consistent issue all the time.

Mr. **Levin**. What do you, how do you respond to it?

Mr. **Jones**. We respond to it by making the supplemental requests that we have and ensuring that the money is out there as quickly as we can get it there.

Mr. **Levin**. And it gets there 6 months after it is needed. We have a proposal to make sure it is there when it is needed, what is wrong with that proposal?

Mr. **Jones**. The proposal that is made in this bill assumes it to be a mandatory, which means that you go intc trust funds and you set up a mandatory account, no matter what the amount of money is, and it goes automatically.

Mr. **Levin**. No, the Labor Department would set criteria by which it would go. I have looked into that argument. It is not an accurate argument. You would set the criteria. Under our reserve proposal the money would not be automatically shifted to the States. You would set the criteria.

You talk about—and I am spending some time and we are delaying a lot of people, but a lot of people are here because this town and this Government has failed to respond—now, you talk about a one-for-one reimbursement. When was the last time study conducted by the Labor Department in terms of how much—you don't know that, yourself?

Mr. **Jones**. No.

Mr. **Levin**. Why don't you?

Mr. **Jones**. 1985.

Mr. **Levin**. Well, why don't you know that?

Mr. **Jones**. There are quite a few things I don't know, Mr. Levin.

Mr. **Levin**. Why wouldn't you know—I am serious. You are basing the system on a 1985 study and that was 6 years ago. Why is it so antiquated?

Mr. **Jones**. This is a different issue now.

Mr. **Levin**. No, no, no, you referred to it. You referred to your using a system of reimbursement where you respond to the needs of the State, to the States. That, I think, was your testimony.

Mr. JONES. That is against the economic assumptions that are in place on a national basis. Those numbers are, I think, fairly standard. I don't think that that is an argument. The only argument here is whether the funding should be automatic on a mandatory basis or, in fact, as it is now, a discretionary call.

The distribution among States is an antiquated system that we have difficulty with in determining the exact workload at any given time and what it should be based on. That does get into some of these other issues of how they process their claims, and what that workload is, and how you judge that.

That is always going to be there no matter how you and I distribute those moneys.

Mr. LEVIN. Why haven't you undertaken a study since 1985 to see what is an accurate, efficient basis for reimbursement?

Ms. WYRSCH. We have done a number of study projects. In 1985, we concluded that the existing system was in need of total replacement and we have been working on alternative systems with the States and using our research dollars, our UI research money, to try to come up with a better system.

One of the issues is the growth in salary rates; the existence of management practices that drive up cost; trying to equalize the playing field, if you will, so that there is still an incentive for productivity and savings. And, at the same time, pay off on workload needs. It has been enormously complex.

Mr. LEVIN. I understand that. I want you to make sure money is allocated efficiently. But look at it from the point of view of not only me, you should answer to constituents too, though you do it indirectly.

Are you going to stand in front of a constituent and say, you have been studying it since 1985?

Ms. GOLDING. And it has been a subject of constant negotiation between us and the States.

Mr. LEVIN. OK, but that is 6 years. How do we defend a system that is outmoded—forget outmoded—6 years under study?

I just want to express some of the feeling of outrage of people who have worked all of their lives who are on unemployment lines or are trying to get through on the telephone and they can't get service from their Government. And an answer can't be, we have been studying it for 6 years.

Now, I want to talk to you about employment services just for a moment. Also, Mr. Jones, you object to a portion of this, the part that relates to job search that Mr. Downey has spent a lot of time on trying to be creative, and I think, effectively so.

I want to tell you again my experience in the Madison Heights office. They now have one-third fewer employees in employment service than they had a year or two ago. They don't have the personnel to help people when they come into the office to help them with job search.

They don't have the money for a separate telephone for the employment service. The calls for the employment service come through the general telephone. Now, if we are serious about getting people back to work—and believe the people I talk to, in the main, I am not saying there are not exceptions, want to go back to work. How do we answer? Do you know how many people are in the employment service today compared to 3 years ago?

Mr. JONES. I don't know the total population.

Mr. LEVIN. Do you know?

Ms. WYRSCH. No, I don't, Congressman.

Mr. LEVIN. It is much reduced and employers are coming to this town, it is not just employee groups. Now, how do we respond to—except through a measure as proposed in this bill—our credo of matching unemployed people with work opportunities when we have reduced by 1/3 the number of people in the employment service, and there is not enough funding within the employment service entity in these offices to even have a separate telephone?

Mr. JONES. Well, let me agree and disagree, Mr. Levin. The funding for the employment service last year was one of the highest it has been in some time. I don't think that is an issue. Our budget reduces it by $50 million, but not one-third. That is an issue of budget caps, not anything else. There is not a philosophical debate on that point.

But I think the bigger issue for employment services today is one that we have been working on with the Congress and with everybody else for the last couple of years, and that is how that money is spent? Your issue is a very important one, both in terms of who accesses it and what kind of services they get. And the issue of how that money is utilized and whether we serve all of those who are on unemployment insurance or at least all of those who are on long-term unemployment and have the greatest opportunity to return to work and what kind of services they get is an extremely important issue. Significant determinations have to be made about that. The oldest issue in the world in the employment service is whether to continue to keep small offices open in every community throughout the country, even when unemployment is at its lowest level.

The first issue before we start adding money to the system and know what we are buying is to determine whether or not the money that is there is doing what you think it ought to do. We would agree with you 100 percent on that issue. We have raised that very specifically, both from a legislative standpoint and from a regulatory standpoint in an attempt to get to that issue.

Mr. LEVIN. Mr. Jones, the Michigan Employment Security Commission, as you know, is automating. The system is going to be in place in a couple of years. Maybe you better come to the Madison Heights office, will you do that some day.

They are down, the employment service, from 17 to 9, and two people are handling 500 eligibility reviews a week. If you think that your policies have resulted in efficiency instead of pain, I want you to tell me how. I invite you to come to the Madison Heights office and we will go there unannounced and you judge for yourself, OK?

I will call you and we will set a day.

Mr. JONES. We will judge how things are going in the office, but whether that is caused by our policies or the State's policies is a totally different issue.

Mr. LEVIN. You bet.

Acting Chairman DOWNEY [presiding]. Unless there are further questions from the members, the witnesses are dismissed. Thank you, very much for your testimony.

Mr. JONES. Thank you.

Acting Chairman DOWNEY. Our next witness is Micheal Deisz, the president of the Interstate Conference of Employment Security Agencies, and executive director of Job Service North Dakota.

STATEMENT OF MICHEAL V. DEISZ, PRESIDENT, INTERSTATE CONFERENCE OF EMPLOYMENT SECURITY AGENCIES, AND EXECUTIVE DIRECTOR, JOB SERVICE NORTH DAKOTA

Mr. DEISZ. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to appear before you today. I am going to just give you a brief summary of our prepared testimony and thank you again for the opportunity to be here. Your H.R. 1367 truly is a comprehensive and far-reaching piece of legislation. Our conference has been studying it and trying to identify those areas where we do have consensus and working on those areas where we do have some difficulty. But we are, first of all, pleased to see many of the issues that we covered with you in our earlier testimony to this subcommittee contained in H.R. 1367 and we applaud your responsiveness in that regard.

We also wish to thank you, personally, Mr. Chairman, for your personal support for the unemployment insurance supplemental which passed the House at $200 million, and the Senate at $150 million. We understand the conference committee is looking at that, especially if the figure is kept at $150 million, some provision for contingency reserve be retained in the event that unemployment rises even higher.

H.R. 1367 addresses some of the issues related to lack of funds for the employment service and unemployment insurance systems, including additional funding for unanticipated workloads, the ability to retain funds for 36 months, if they are used for capital assets, such as computer systems; and moving unemployment insurance administrative funding from discretionary to mandatory. It would also provide more Federal participation in the extended benefits—or Federal supplemental benefits—program; equal treatment for ex-military personnel and premium/interest rates to promote State trust fund solvency. These are issues that we have discussed with you and we are pleased to see them addressed in your bill.

Regarding extended/supplemental unemployment benefits specifically, our conference does favor and supports increased financial participation by the Federal Government which we feel has the predominant role in determining the extent to which those benefits are paid. We have some concern about using the total unemployment rate and that is something that we are going to study more carefully, however, we have not had time to do a total analysis yet.

Perhaps one of the areas that we have the most concern with is the issue of limitation on disqualifications under State law. Historically, our position has been that we favor those provisions which provide more flexibility for State legislators and oppose those that restrict that flexibility. We feel that it limits the arena of debate for the business and labor representatives who deal with their local legislature in determining which program is best responsive to their situation.

Retraining and the Federal job search assistance are two areas that I am going to touch on very quickly. We support in concept both approving available training and job search assistance. The concern we have again is with the mandatory aspects and with the issue on Federal job search of the program not triggering on until after 10 weeks of UI benefits. We think job search assistance is a very valuable component for many individuals and, in most cases, the need for that assistance can be determined very early in the claims filing process and the earlier that is done, the better.

We applaud your efforts to put resources into the public employment service and we know that to do this on an entitlement basis we have to address individual claimants. We will just mention what was covered earlier: since 1980 the staffing for the public employment service has dropped from 32,000 to 17,000 and very obviously the capacity of that system to deal with the needs of unemployed workers has been substantially diminished.

What we would encourage consideration for and we are going to be working to attempt a more specific answer, again, we believe the key service we can provide to all unemployed workers is that early assessment of their individual needs in relation to the labor market and economic conditions. For some, job search assistance is an immediate and necessary tool that can be very cost effective; for others it is training and in many cases it might be something like case management; but the basic ability to very quickly determine that need and begin to address it is the key.

We encourage consideration for something similar to a part of the current UI funding formula. For a certain number of weeks claimed, there is a certain amount of money for eligibility reviews; we would encourage a certain amount for job search and related services also.

The principal area of concern, and I think it is one that covers the whole administrative financing question, is the fact that we are a part of the unified budget. We realize that's not going to change quickly. But we are concerned that in our conference and in the broader public policy debate it is just going to be very difficult to convince many of the players that on the one hand, we know that more money is being collected now for FUTA, than is being used for administration and other activities; we understand that we have a reserve in the extended compensation account; we also realize that under present rules any changes require additional money. But we would submit that until such time as that whole program is taken off the unified budget and that if we can equate revenues that are generated to resources expended on behalf of workers and employers that would be very difficult anywhere to get consensus.

But, again, Mr. Chairman, I think the issues your bill addresses are critical ones. We have some concern with some of the issues that we will continue to work on, but we do think that the review that this legislation provides is important, necessary, and we hope that some quick resolution can be provided.

Thank you, very much.

[The prepared statement follows:]

Statement by Micheal V. Deisz

Executive Director
Job Service North Dakota
and
President
Interstate Conference of Employment Security Agencies

To
Subcommittee on Human Resources
House Committee on Ways and Means

March 21, 1991

Mr. Chairman and members of the Subcommittee, my name is Mike Deisz. I am President of the Interstate Conference of Employment Security Agencies and Executive Director, Job Service North Dakota. Thank you for the opportunity to appear today to discuss proposed changes to the unemployment insurance program.

The Interstate Conference of Employment Security Agencies is the organization of administrators of federal and state unemployment insurance laws, employment services, and labor market information programs throughout the country. Many of ICESA's members also administer federal job training programs.

H.R. 1367, the Unemployment Insurance Reform Act of 1991, is a comprehensive bill that would make major changes in the unemployment insurance program. ICESA has standing policy on some aspects of this bill. Other provisions represent new concepts about which policy is yet to be developed. ICESA's Legislative Committee has made a preliminary analysis of the bill and will be making recommendations to our Board of Directors and the full membership. In the meantime, we appreciate this opportunity to share some preliminary thoughts with the Subcommittee.

Extended/Supplemental Unemployment Benefits
The proposal to repeal the Federal-State Extended Unemployment Compensation Program and replace it with a new program based on the total unemployment rate and funded entirely by Federal Unemployment Tax revenues is of great interest to ICESA's members. ICESA has established policy favoring increased federal participation in financing the extended benefits program based on the observation that the federal government has the predominate role in determining the extent to which extended benefits are available.

There is concern among some of ICESA's members regarding use of the total unemployment rate to trigger the payment of benefits, due both to its volatility and inclusion of unemployed individuals who have not qualified for state benefits and therefore would not be potential recipients of supplemental benefits. There is substantial uncertainty about the implications of a total unemployment rate trigger and a desire for more analysis of the impact of this proposal.

ICESA's Legislative Committee favors the repeal of the extended benefits program and replacement with a temporary program which is fully financed by the federal government, either from Federal Unemployment Tax revenues or from federal general revenues. The new program should provide benefits under the same terms and conditions as state unemployment benefits. As you know, the extended benefits program has a variety of qualifying and eligibility requirements which restrict the number of regular unemployment insurance exhaustees who are eligible for extended benefits. A temporary program is favored because the level of unemployment at which additional benefits are thought to be appropriate changes over time. It might be best for Congress to respond to each recession by tailoring supplemental benefit programs to fit the unique characteristics of each recession.

Regarding the more technical aspects of the proposed program, ICESA favors payment in advance to each state for the cost of supplemental benefits and supports fraud and overpayment recovery provisions which would be consistent with state laws.

Limitation on Disqualification Under State Law
H.R. 1367 proposes to require states to pay benefits after ten weeks to individuals who voluntarily quit work without good cause or who refused an offer of suitable work. No requirement for reemployment or earnings to establish eligibility after such a disqualification would be permitted. Any disqualification would be limited to the separation from the most recent employment.

States would also be required to pay benefits to individuals who failed to meet the state requirements to be able, available, and seeking work if the failure to meet any of these requirements was due to a physical condition reasonably expected to last for 6 weeks or less.

These new federal benefit requirements are estimated to increase state benefit payments by about one billion dollars per year.

Throughout the history of the federal-state unemployment insurance program most benefit payment decisions have been left to states, where the responsibility for financing benefits also rests. There is a basic philosophy that unemployment insurance should be available as a matter of right to individuals who are unemployed through no fault of their own and who are able and willing to work. This philosophy is interpreted in a variety of ways among the states through differing qualifying and eligibility requirements. These requirements are arrived at through compromise and negotiation at the state level among the parties involved and reflect the views of the state population. ICESA has long held the view that those responsible for financing benefits at the state level should also decide the terms and conditions of benefit payments. We are opposed to federal benefit standards.

Unemployment Benefits for Former Members of the Armed Services
Unemployment benefits for former military personnel are now limited to 13 weeks of benefits after a waiting period of four weeks. Civilian workers can qualify for a maximum of 26 weeks after a one week waiting period in most states. ICESA believes that the restrictions on payment of unemployment benefits to former military personnel are unfair and supports your proposal to repeal them.

Benefits for Certain School Employees Between Academic Terms
ICESA believes states should have the option of paying or denying benefits to employees of educational institutions between academic terms. These and other decisions about eligibility for benefits should be made at the state level where state policy makers are responsible to the electorate for maintaining a program that meets the needs of its citizens.

Treatment of Certain Determinations
In recent years, some courts have refused to decide cases related to separation from employment because the plaintiff had lost an appeal for unemployment benefits. The unemployment compensation appeals system was designed for prompt resolution of contested claims. There are significant differences between the legal standards, evidentiary burdens, proof, and admissible evidence in UC hearings and in state court proceedings where tort, breach of contract, wrongful discharge and discrimination claims may be heard. In addition, potential UC claimants who are pursuing civil litigation related to their former employment might be discouraged from applying for benefits rather than risk an adverse decision related to UC benefits. For these reasons, ICESA believes that unemployment compensation appeals determinations should not be binding in subsequent litigation.

About one-half of the states have already enacted laws to prohibit the use of UC appeals decisions by state courts to preclude other litigation. ICESA would encourage any state where this is a problem to enact such legislation, but would not support a federal conformity requirement as a remedy. It appears that in states where the courts have refused cases based on UC appeals decisions that state laws have been enacted to correct the situation.

Retraining of Long Term Unemployment Compensation Recipients

Federal law requires that benefits may not be denied to a claimant who is in training approved by the state. Most states approve any training that is available through government programs. Training provided by the Trade Act or Title III of the Job Training Partnership Act is automatically approved. H.R. 1367 would require states to approve any training after the claimant had received 10 weeks of benefits unless a preponderance of evidence indicated that the training would net no social benefit.

ICESA supports policies that promote training for unemployment insurance recipients who need improved skills in order to be successful in the workforce, and which will identify them early in their claim series. We object, however, to a federal standard which abolishes any discretion by the state agency regarding the utility of the training. Waiver of work search and suitable work requirements for individuals who enter training which is inappropriate or for which there is no demand is not in the best interest of either the individual or the unemployment insurance system. Many recipients of unemployment benefits, even those who receive more than ten weeks of benefits, have marketable skills and will return to work in their usual occupation when the economy improves.

Federal Job Search Assistance

H.R. 1367 would require individuals who had worked for their last employer for three years and who had received ten weeks of unemployment benefits to participate in an intensive job search program. There would be waivers for certain workers, for example, those who expected to be called back to their former employer by a certain date. Those who failed to participate would be denied benefits.

The individual would be entitled to an "intensive job search program voucher" which could be used to obtain these services. The provider of the services would be entitled to a payment for each voucher equal to the lesser of the reasonable cost of the service or the average weekly benefit amount in the state. The payments would be made from the Supplemental Unemployment Compensation and Reemployment Assistance Account in the Federal Unemployment Trust Fund.

ICESA strongly supports coordination of efforts to promote reemployment of permanently separated workers with unemployment insurance and commends the sponsors of this legislation for addressing this often neglected aspect of the employment security system. Providing reemployment services to unemployment insurance recipients should be a role of the state employment service. Over the past decade, the resources available to the employment service have declined precipitously, from about 30,000 staff in 1980 to the present level of about 17,000. The capacity of the employment service must be rebuilt in order to provide these needed services to unemployment insurance recipients and other unemployed workers.

In a few states, state funds have been used to pay for job search assistance for unemployment insurance recipients. Our experience with these programs tells us that these services are most effective early in the individual's period of unemployment, rather than waiting for ten weeks. We also object to the federal disqualification requirement; state laws include sufficient provisions to disqualify individuals who are not making efforts to become reemployed without an additional federal disqualification requirement.

Our initial review of the proposed job search program voucher raises a number of questions. One is the link of the voucher amount to the average weekly benefit amount in the state. Some determination of the reasonable cost of providing the services identified would appear to be a better way to determine the dollar value of the voucher. In addition, it is our view that funding should come from a source other than the account from which extended/supplemental benefit payments are made. As we study this proposal further, and our understanding of it becomes clearer, we hope to provide you with additional comments.

Modifications to the Federal Unemployment Tax
The Federal Unemployment Tax wage base would be increased from the current level of $7,000, to an amount equal to the Social Security wage base in 1992, estimated at $55,800. The tax rate would drop gradually from 0.8% to 0.3%. The wage base for state unemployment taxes would no longer be required to equal the FUTA wage base.

This is a proposal about which ICESA has no standing policy. However, the Legislative Committee has serious concern about a tax increase of this magnitude, especially when there are substantial balances already in the federal unemployment trust fund accounts. At the end of FY 1990, the balance in the administration account was $2.24 billion; the balance in the extended benefit account was $7.24 billion; and the balance in the loan fund was $2.21 billion.

We understand the "pay as you go rule" of the Congress; however, this application of that rule simply makes more obvious the perverse effect of the current budgetary treatment of the unemployment trust fund. Balances should build up in the trust fund to be used during economic downturns, but now when additional funds may be needed, those monies cannot be spent, and taxes have to be raised. The proposed increase will raise about $3 billion more over five years than this bill is estimated to cost, building even higher balances in the trust fund that will be used to offset other federal spending. We urge you to support changes in the federal budget rules which end this irrational charade.

We also see some negative effects of this proposal at the State level. An increased federal payroll tax burden makes it more difficult to raise state unemployment taxes as they are needed. It also puts downward pressure on wages which should be recognized.

Modifications to Federal Unemployment Accounts
Several changes are proposed in the federal accounts in the unemployment trust fund which we would like to touch on briefly.

Treatment of States Maintaining Adequate Balances. Premium interest rates would be paid to states with trust fund balances that meet high cost multiples of 0.5, 1.0, and 1.5. The ICESA Legislative Committee supports this concept, but urges a reevaluation of the multiples in view of the 100% federal financing of benefits beyond the regular state program.

Transfers to Federal Unemployment Account (FUA). Ten percent of FUTA revenues would be transferred directly to FUA and the ceiling on FUA would be lowered from 0.625% of covered wages to 0.325. Lowering of the FUA ceiling seems to be justified by recent research. The direct transfer of 10% of FUTA income to FUA raises concern about the impact of a 10% reduction in income on the Employment Security Administration Account.

Borrowing Between Federal Accounts. Provisions for borrowing among the three federal accounts in the federal unemployment trust funds are proposed. Additional time is needed to analyze this proposal.

Grants to States for Administrative Financing

ICESA supports the basic concept embodied in the section related to administrative funding which establishes an appropriated entitlement for unemployment insurance administration. Administrative funding would be shifted to the mandatory spending cap, a change which would permit increased spending due to increases in unemployment. Our members have not had an opportunity to analyze the two tiers--the basic grant and the additional workload grant--in detail, or the measures to which these grants are indexed. However, the initial reaction of the Legislative Committee is a positive one overall. There is some concern that the basic grant level is not determined as a certain portion of the total average weekly insured unemployment. As we are able to analyze the proposal more thoroughly, we would hope to provide you with more specific comments.

The section permitting the Secretary of Labor to reserve up to ten percent of the grant amount to carry out activities in support of the unemployment compensation system should make clear what those activities are. We understand that the largest expenditure from this amount will be for central payment of postage costs which we would urge you to specify in the bill.

The ICESA Legislative Committee would also support an addition to the section requiring the Secretary of Labor to prepare a report on the method of allocating funds among the states to include consultation with the states in preparation of this report.

Advisory Council on Unemployment Compensation

ICESA's Legislative Committee believes that the proposal to establish an advisory council every five years to evaluate and report to Congress on the status of the unemployment compensation program would provide a source of important information and an early warning system for problems in the system.

Treatment of Unemployment Compensation Programs

ICESA supports the provisions which would exempt Federal Supplemental Compensation, Federal Job Search Assistance and Employment Security Administration from sequester.

Conclusion

Thank you for the opportunity to provide comments on this comprehensive bill and for your interest in the unemployment insurance system. I will be happy to answer any questions you may have.

Acting Chairman DOWNEY. Thank you very much, Mr. Deisz.

Mr. Shaw.

Mr. SHAW. I just have one question for the witness, and that is in regard to the tax increase that is in the bill. Do you support that? Does your organization support that?

Mr. DEISZ. Our conference is concerned with that increase. Again, the problem that we have is one of—the increase, I think there are two aspects to it. One is that the increased wage base tends to make the tax less regressive, and I think to a degree many of our people support that.

Where we get hung up in our discussion is how much additional money needs to be raised, and that is where we get into the budget rules, and we are having a difficult time getting agreement, number one, that there is additional money needed, and it gets into the issue of how much is already being collected, and that is——

Mr. SHAW. That is where we have our problem, too.

Mr. DEISZ. But we do not have consensus, Mr. Chairman. I would say this, while we have not taken a formal vote, there would be more of our members who would oppose than support it, at this point. I do not think, until we can look at that issue by itself, that we will get consensus.

Mr. SHAW. But most of your members do oppose a tax increase?

Mr. DEISZ. Yes, sir.

Mr. SHAW. Thank you.

Acting Chairman DOWNEY. Mr. Andrews.

Mr. ANDREWS. But you are for the benefits?

Mr. DEISZ. Again, Mr. Chairman and Mr. Andrews, we feel that the money is sufficient money being collected and, again, the problem we ran into is the dilemma, in dealing with our employers back home, of convincing them that, OK, we are already paying, I think, last year $500 million more than was expended on administration, why does the tax have to be raised to cover additional administrative costs.

I think on the benefits, the same issue is true. I think our people do indeed support the Federal supplemental benefits as you propose. However, the question is that we are not clear on what level of increase is needed to cover that cost. That is the issue.

Mr. ANDREWS. Thank you.

Acting Chairman DOWNEY. Thank you, Mr. Deisz, very much, for your testimony.

The subcommittee will next hear from William J. Cunningham, legislative representative of the AFL-CIO; Alan Reuther, associate general counsel of the UAW; Ronald L. Adler, member, Council on Unemployment Compensation, U.S. Chamber of Commerce; Warren Blue and William Brown, of the Employee Benefits and Relations Committee, and he is also the past president.

Mr. Cunningham.

STATEMENT OF WILLIAM J. CUNNINGHAM, LEGISLATIVE REPRESENTATIVE, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS (AFL-CIO)

Mr. CUNNINGHAM. Thank you, Mr. Chairman.

Mr. Chairman, the latest figures on unemployment claims in the last week is 519,000. This is the highest figure in the last 8 years. I think a fair summary of the Department of Labor's view and the administration's view is that "the unemployment compensation ain't broke, so don't fix it."

In our view, it is "broke."

As we testified before, the initial claims are about 33 percent of the unemployed workers. The extended benefits program, as you have gotten testimony, is basically only triggered on in five States, 3 months into a recession, it may be triggered on in five more. Basically, if the administration is correct, and we have some question about it, the extended benefits program may be triggering on when the recession is all over.

We understand the dilemma that each of you face in this issue. If you agree that the system is broken, you are going to have to raise revenues to fix it, and we basically believe that you should do that.

The unemployment compensation system is the first line of defense for workers and their families, and it has not been an effective safety net, in our view. As I mentioned, only 33 percent of the people who are unemployed get benefits, and this figure has risen in the last couple of weeks to 40 percent, and that seems to be a high, but by historic standards, it is very, very low.

For long-term joblessness, the extended benefits program is virtually nonexistent, and, of course, funding for the State administrative program is basically haphazard, at best. Based on my experience with the administrative costs for the State system, it is becoming the expiring tax provisions of every Congress. Each year, we come up and ask for emergency appropriations, and each year we get a little less than we ask for, and each year the system goes down over time.

Let me point out that the AFL-CIO has a lot of concerns, some of which are addressed in the bill. I think our basic concern is that initial eligibility is so low. This requires some changes. We agree with the changes in your bill, and that basically, after a 10-week period, people who are now denied unemployment compensation will be allowed to make a claim and get a benefit after 10 weeks.

During this 10 weeks, as pointed out, you have to be searching for a job. After you get the benefit, after 10 weeks, you go into an intensified job search program that will probably encourage people and, if there are jobs available, to get jobs.

I listened with interest to the Labor Department witness that people on unemployment compensation might delay finding a job. I think that does not go to the issue that unemployment compensation benefits are one-third of your prior salary, hardly a munificent sum, and all unemployment compensation is subject to Federal tax, which is also a reduction in disposable income. There are no unemployed workers that I am aware of that basically desire to live off unemployment compensation. They have no alternative.

The new Federal supplemental compensation program is a good way of going. It is basically a Federal tax collected at the Federal level, putting into place a fully Federal system. This, indeed, costs money, but we are supportive of it. We think that the flexible total unemployment rate and the 120 percent average for the last 2 years makes some sense, especially in those States where persistent high unemployment is a problem.

Administrative financing, as we pointed out, we support the entitlement aspect of it. This idea of going through declaring an emergency or not declaring an emergency and waiting for an emergency supplemental is just a bad way to administer a program. It affects the delivery of benefits to people who are most vulnerable and those that should be served.

In conclusion, Mr. Chairman, lest you think that the pom-poms are out and we think is the biggest and the bestest of all bills, we are concerned that there was no effort to increase the basic benefit—it is inadequate. The AFL-CIO has traditionally supported a large basic benefit. The UI supplement replaces wages of people who are unemployed. Usually, in a lot of families, this is the only income that is coming into the family, and we would hope, as the committee reviews this issue, that they would look at the adequacy of the basic benefit.

In our testimony, we go through different provisions that we like. We were remiss in not including the temporary seasonal school employees, and we support their inclusion, which is in your bill.

Thank you very much, Mr. Chairman.

[The prepared statement follows:]

91-11

STATEMENT BY WILLIAM J. CUNNINGHAM, LEGISLATIVE REPRESENTATIVE
DEPARTMENT OF LEGISLATION
AMERICAN FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL ORGANIZATIONS
BEFORE THE SUBCOMMITTEE ON HUMAN RESOURCES
OF THE HOUSE WAYS AND MEANS COMMITTEE
U.S. HOUSE OF REPRESENTATIVES
ON H.R. 1367, THE UNEMPLOYMENT INSURANCE REFORM ACT OF 1991

MARCH 21, 1991

Mr. Chairman, the AFL-CIO appreciates this opportunity to testify in support of H.R. 1367, the Unemployment Insurance Reform Act of 1991. We congratulate you and the members of this Subcommittee for your continuing leadership and efforts to help jobless workers, to remedy the deficiencies of the nation's unemployment compensation system, and to bring more fairness and more efficiency to the administration of the unemployment insurance system.

We support H.R. 1367 as a major step forward toward making the nation's unemployment insurance system work fairly and efficiently. With the introduction of long needed federal standards, this legislation will enable many of the unemployed workers to get UI benefits that have been unfairly denied. It will drastically improve opportunities for the long-term jobless to get unemployment payments when their regular state UI benefits run out. It provides assured financing for administration of state UI and employment services. And it significantly improves financing through the federal unemployment tax.

Unemployment insurance (UI) is the first line of defense for workers and their families when the worker loses his or her job. It is a key part of the nation's "safety net" which helps workers and their families maintain a minimum standard of living when workers lose their jobs and their income. By helping to maintain consumer buying power, UI benefits serve as a counter-cyclical stimulus when the economy is in recession.

Unfortunately, the UI "safety net" is full of holes. Coverage of workers is tragically inadequate. Since 1984, just one-third of the unemployed have been getting UI benefits. The long-term jobless have been largely uncompensated. And UI replacement rates continue to be far below adequate levels.

Reform of the UI system is urgently needed to deal with current high levels of unemployment and with persistent long-term joblessness even after the end of the recession. I have attached to my testimony a graph which indicates worse unemployment lies ahead in this current recession and a table which indicates that unemployment normally remains high for a long time after the official end of a recession, thereby buttressing the need for the new proposed Federal Supplemental Compensation program.

The AFL-CIO congratulates you, Mr. Chairman, for the proposals embodied in H.R. 1367. While we are very supportive of the main thrust of this legislation, there are a number of points we would emphasize and improvements we would suggest.

ELIGIBILITY

Disqualification and denial of eligibility of UI claimants by state UI administrators are key reasons for the low rate of unemployed workers receiving UI benefits. State UI administrators are responsive to employers' demands to keep benefits low so that state UI taxes can be kept low. This "business climate" approach to UI encourages states to compete with one another -- not in a positive sense, but -- in a fashion harmful to the interests of jobless workers.

Many state legislators and too many state UI administrators adopt the employers' view that it is more important to keep UI taxes low and to keep UI eligibility restrictions high, rather than to help unemployed workers and their families with adequate UI payments. This approach defeats the purpose of the UI system.

The National Commission on Unemployment Insurance pointed out in 1980 that these issues go to the heart of the nature of unemployment compensation as a system of social insurance distinct from welfare.

The Commission declared that in the area of cancellation of benefit rights, the trend by states to impose strict disqualifications "has been so strong that Congress should intervene to correct what is widely regarded as a loophole in the Federal law." (page 48)

Both of these statements by the Commission indicate a long-standing need for federal standards to restrict disqualifications of UI claimants by the states.

And the Commission recommended to Congress "that the FUTA be amended to provide that State laws may not require any reduction of benefit rights except for fraud or receipt of disqualifying income." (page 48)

The purpose of the UI system is to help unemployed people in time of need, not to punish them for the circumstances under which they lost or left a job.

For this reason, the AFL-CIO strongly supports the provisions of H.R. 1367 which generally limit state disqualification of UI claimants to 10 weeks. We believe that jobless workers who have earned enough quarters of coverage should be eligible for UI payments after 10 weeks at a maximum, and that there should be no disqualification except for fraud or receipt of disqualifying income.

We support provisions in Title II which permit states to cancel wage credits or reduce benefit rights in cases of fraud or receipt of disqualifying income but not for those involved in a labor dispute.

Federal standards are necessary to set minimum UI eligibility requirements to assure "safety net" assistance for the 60 percent of the unemployed who are not now getting UI benefits. This is a legitimate and proper role for the federal government, and it is much needed to assure a greater degree of fairness and equity in the state UI programs.

The experience of the last ten years indicates clearly that in the absence of strong protective federal standards, most state unemployment insurance programs do not adequately protect workers, and, in fact, deny UI benefits to most jobless workers.

We believe unemployment compensation is an earned right, based on work experience. It is not reasonable to consider that workers have a stake in this system by virtue of the contributions made on their behalf. Should they become unemployed, and if fraud and disqualifying income are not factors, they should have rights to jobless assistance.

This view justifies the prohibition contained in H.R. 1367 against states cancelling a UI claimant's rights to weeks of benefits for any cause other than fraud in a UI claim, or receipt of disqualifying income. As stated above, we have reservations about exceptions for discharges for misconduct connected to work because employers so often claim such misconduct in order to evade responsibility for a layoff and thus avoid raising their experience-rated state UI taxes. We also oppose exceptions for labor disputes as a failure by the state to pay earned benefits. Failure to pay benefits in such situations places the state on the side of the employer in the dispute.

However, we strongly support the concepts introduced in H.R. 1367 which limit disqualification of UI claimants. Hundreds of thousands of jobless workers and their families will benefit from the widening of eligibility and coverage made possible by enactment of these provisions.

NEW FEDERAL SUPPLEMENTAL COMPENSATION

The UI system does not now cope effectively with long-term unemployment. Almost one-third of those who do get UI benefits exhaust their benefits before they find a job. In 1990, there were 2,300,000 jobless workers who used up all their UI benefits. Unrealistic and unworkable triggers for extended benefits have the effect of denying benefits to most long-term unemployed workers.

The present Extended Benefits program is ineffective and virtually non-existent in the current recession. To amend this program would not have immediate benefit because the benefits would not take effect in a state until the state amended its state Extended Benefits law, a process which could take over a year.

Therefore, we support H.R. 1367 which would repeal the present federal-state Extended Benefits program and replace it with a new Federal Supplemental Compensation (FSC) program to be funded 100 percent from federal unemployment taxes.

We support the three-tier approach using the Total Unemployment Rate (TUR) instead of the Insured Unemployment Rate (IUR). The IUR is simply not a realistic picture of unemployment in the nation as a whole or in any specific state. The IUR is wrongly and excessively stable when total unemployment is rising. It fails to reflect current conditions of unemployment.

We welcome the approach of the new Federal Supplemental Compensation program in adding extra benefit weeks to existing regular state UI programs, most of which provide for a maximum of 26 weeks:

6% and 120% of the average for last 2 years -- 9 weeks
7% and 120% of the average for last 2 years -- 18 weeks
8% and 120% of the average for last 2 years -- 26 weeks

A national high unemployment period would suspend the 120% requirement when the seasonally adjusted national TUR is at least 6% for a 3-month moving average.

The three-tier approach very reasonably relates the duration of additional Federal Supplemental Compensation benefits to the level of unemployment in a state. Thus, in states with higher unemployment and more long-term unemployment, total duration of benefits could reach 52 weeks when the TUR is 8 percent.

ADMINISTRATIVE FINANCING

In recent years, as unemployment has been going up, there have been chronic problems of Administration under-funding of grants to the states for administering the unemployment insurance system. This creates serious problems and inefficiencies in administration of UI -- and it leads to heart-rending delays and hardships for jobless workers seeking the UI benefits to which they are entitled.

The tragic effect of this under-funding for administration at the state level is a reduction of services to jobless workers at a time when they are most in need.

Administrative funding shortfalls and instability in local offices serving unemployed workers have grown in recent years. Offices are closed, hours of service are shortened, and experienced UI staff are laid off. This makes it increasingly difficult for jobless workers to collect the UI benefits to which they are entitled and to receive the counseling and assistance to help them become reemployed.

For example, in Michigan workers claiming UI benefits are waiting up to five weeks for their first check. In Maine, workers are waiting three to four weeks for a check. As the recession gets worse and unemployment rises, we will see longer lines at overcrowded UI offices, more offices closing, and more service breakdowns like the January failure of New York State's computer system because of an unmanageable overload of UI claims.

Therefore, we support the proposal in H.R. 1367 for a UI administration entitlement grant appropriated automatically. This grant will grow as the labor force grows and state salaries go up.

FEDERAL UNEMPLOYMENT TAX

We support your proposal (1) to reduce gradually the federal unemployment tax rate from 0.8 percent to 0.3 percent; (2) to raise the federal unemployment taxable wage base from the current $7,000 to $55,800, the social security taxable wage base in 1992; and (3) to decouple the federal taxable wage base from state taxable wage bases.

These actions are necessary to keep the UI system on an even financial keel while relieving the states of the big cost of the old Extended Benefits program and taking on 100 percent financing of the Federal Supplemental Compensation program. They will reduce taxes on employers of lower-wage workers and reduce the regressivity of the FUTA tax.

CONCLUSION

Mr. Chairman, we regret that this bill fails to deal with the issue of UI benefit adequacy. In previous testimony to this Subcommittee, we have documented the substantial shortfall in replacement of wage income for jobless workers, and we believe this issue should have been addressed in this bill.

But, there are other parts of H.R. 1367 we support, including improved UI benefits for ex-service members, federal job search assistance, and premium interest rates to encourage states to maintain adequate trust fund balances.

We support the provisions which require participation in an intensive job search program, but we oppose the "job search assistance voucher." Such assistance should be available without charge from the Employment Service. The existence of such a voucher would promote rapid expansion of fly-by-night job search assistance operators out for a fast buck with little or no regard for the real needs of the jobless workers needing help.

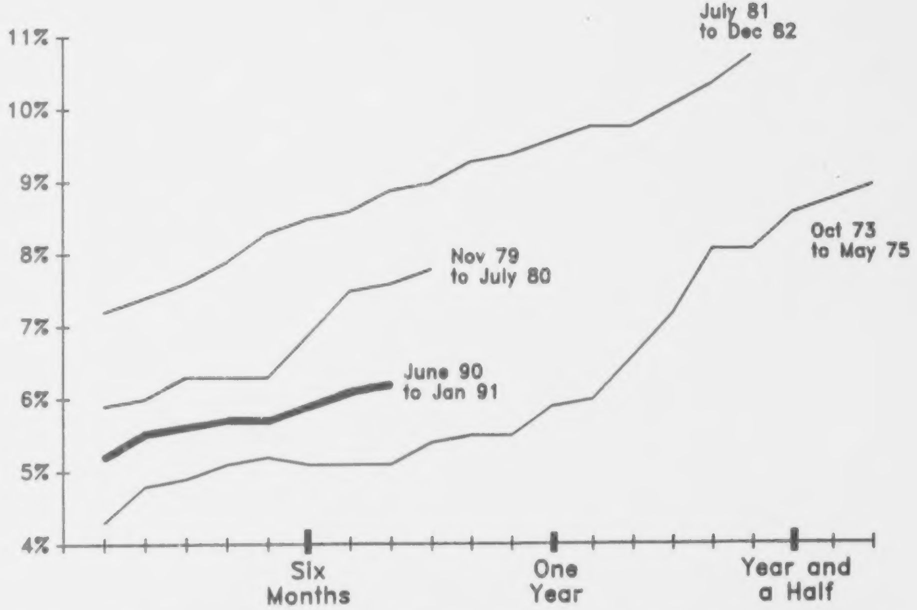
We are particularly enthusiastic about your proposal for a new advisory council on unemployment insurance to report to Congress on counter-cyclical effectiveness, benefit adequacy, solvency, and administrative efficiency of the UI program.

The AFL-CIO appreciates your leadership and the interest of this Subcommittee in improving the nation's unemployment insurance system. We are eager to work with you and the members of the Subcommittee and the Subcommittee staff to help move this legislation along to enactment.

Thank you.

Attachments

Past Recessions Indicate Worse Unemployment to Come



In past recessions unemployment rose more than 3 percentage points.

Source: Bureau of Labor Statistics

It Takes Years For Unemployment To Go Down

After Oct 73–May 75 Recession

It took 3 years for unemployment to fall below 6 percent. Unemployment never reached its pre–recession unemployment rate of 4.3 percent.

After Nov 79–July 80 Recession

Unemployment declined for only 9 months to 7.2 percent before turning up again in the 1981 recession.

After July 81–Nov 82 Recession

It took 4 1/2 years for unemployment to fall below 6 percent.

Even after the official end of a recession, unemployment remains high for a long time.

Source: Bureau of Labor Statistics

Acting Chairman **Downey**. Thank you.

Mr. Reuther.

STATEMENT OF ALAN REUTHER, ASSOCIATE GENERAL COUNSEL, INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW)

Mr. **Reuther**. Thank you very much, Mr. Chairman.

My name is Alan Reuther, and I am an associate general counsel for the International Union, UAW.

I would like to indicate for the record that Richard McHugh, the person whose name appears on our testimony, was scheduled to be here, but due to a death in his family, he is not able to be here today.

We appreciate the opportunity to testify on the proposed Unemployment Insurance Reform Act of 1991. We strongly support this legislation, and we commend you, Mr. Chairman and Representatives Pease and Levin, for your leadership in introducing this legislation.

H.R. 1367 would represent, in our view, a major advance toward restoring the effectiveness of our unemployment insurance system. It would restore benefits to the long-term unemployed, place limits on some overly stringent State disqualification provisions, and provide more adequate administrative funding to State agencies.

The UAW strongly believes that without comprehensive reform, the unemployment insurance system will continue to fail in meeting its twin goals of providing an economic cushion to unemployed workers, while boosting a sagging economy.

Mr. Chairman, between June 1990 and January 1991, the number of unemployed who have been out of work 26 weeks or longer has increased 29 percent. This long-term unemployment has grown 11 percentage points faster than the total unemployment during the same period.

In recent years, the long-term unemployed have been without an effective extended benefits program. H.R. 1367 would establish a new Federal supplemental compensation program to replace EB. We strongly support this feature of the legislation. In particular, we wholeheartedly support the provisions which would establish Federal financing of benefits beyond the basic 26 weeks of regular State benefits, and which would use the total unemployment rate as a trigger for supplemental benefits.

In order to finance the proposed supplemental compensation program, H.R. 1367 provides for a much-needed increase in the Federal taxable wage base. In 1939, 98 percent of wages were subject to unemployment insurance taxes. Today it is less than 40 percent. Given the current Federal budgetary situation, an increase in the FUTA taxable wage base is the most logical method of providing the revenue necessary to help the long-term unemployed and restore the countercyclical effects of unemployment insurance.

Mr. Chairman, in the UAW's testimony before this subcommittee on February 20, we included a comparison of those States which paid benefits to the highest proportion of their unemployed workers in the 1980s and those States which paid the lowest proportion.

This comparison showed that the lowest States have much stricter monetary eligibility provisions and stricter disqualification penalties.

In the current recession, we can expect States to further restrict their unemployment insurance systems, in order to offset the increased benefits paid to the hundreds of thousands of newly unemployed workers, continuing the pattern set in the 1980s.

H.R. 1367 contains a number of important limitations on the State discretion to adopt overly strict disqualification penalties. Most important of these are the provisions in section 201 of the bill, which would prohibit States from imposing more than a 10-week delay in the receipt of benefits, and limit the use of durational disqualifications in most cases.

In addition, the bill would stop States from cancelling wage credits or benefit rights in many cases, and prohibit the disqualification of a worker for reasons unrelated to his or her most recent separation from work.

The UAW strongly supports all of these limitations.

It is important to note that we do not question that, under our current system of unemployment insurance, the voluntarily unemployed; that is, those who quit, get fired or refuse to work, should be subject to some penalties before receiving benefits. The question here is one of degree and proportionality.

One critical provision in H.R. 1367 is the elimination of most durational disqualifications. This action would be consistent with the recommendation of the National Commission to the States in 1980. In the early years of the unemployment insurance system, virtually all of the penalties for disqualifications involved a suspension or delay in the payment of benefits. Typically, a 6- or 7-week denial period was imposed for voluntary quits, misconduct discharges or refusals to work.

Despite the belief of many experts that these denial period penalties were sufficient, the use of durational disqualifications has spread steadily. In 1990, over 1 million individuals were disqualified for voluntarily leaving, and about 650,000 workers were subject to misconduct discharge penalties. The majority of these individuals were subjected durational disqualifications.

In conclusion, Mr. Chairman, there are a number of other features in the bill that we also strongly support. There are many positive features, such as the provisions relating to administrative funding, nonprofessional educational employees, and the application of collateral estoppel.

The decade of the 1980s was a decade of decline for our Nation's unemployment insurance system. The proposed Unemployment Insurance Reform Act of 1991 is a vital step toward reversing that decline.

Mr. Chairman, we wish to once again commend you for your leadership in introducing this legislation and we pledge to work with the committee for the prompt enactment of this bill.

Thank you.

[The prepared statement of Richard McHugh follows:]

STATEMENT OF RICHARD McHUGH, ASSOCIATE GENERAL COUNSEL INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE, AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW)

Mr. Chairman, my name is Richard McHugh and I am an Associate General Counsel with the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW). On behalf of the UAW's members and their families, I want to thank the Subcommittee for the opportunity to testify on the proposed Unemployment Insurance Reform Act of 1991 (H.R. 1367). The UAW strongly supports this legislation. We commend the Chairman and Representatives Pease and Levin for their leadership in introducing this critical legislation.

Mr. Chairman, this Subcommittee has heard much important testimony over the last several weeks which has, in our view, made a convincing case for the need for Congressional action to remedy the serious shortcomings in our nation's unemployment compensation system. The UAW's testimony before this Subcommittee on February 20 discussed the full-scale retreat, which occurred during the 1980s, on nearly every front in the unemployment insurance system. Largely as a result of federal and state actions during that decade, fewer unemployed workers got benefits, those who received benefits found them financially inadequate, and the long term unemployed were largely without assistance. In addition, state agencies were funded at levels which provided only minimal levels of services to claimants and employers.

The proposed Unemployment Insurance Reform Act of 1991 (H.R. 1367), would represent a major advance toward restoring the effectiveness of our unemployment insurance system. It would restore benefits to the long term unemployed, place limits on some overly stringent state law provisions, and provide more adequate administrative funding to state agencies. The UAW strongly believes that without comprehensive reform the unemployment insurance system will continue to fail in meeting its twin goals of providing an economic cushion to unemployed workers while boosting a sagging economy. The prompt enactment of H.R. 1367 is urgently needed by the hundreds of thousands of unemployed workers who are without adequate protection from the economic hazards of unemployment under our current unemployment insurance system.

The Current Economic Situation

In many ways, the current recession is unlike previous recessions. The underlying health of the U.S. economy was shaky at best even before the recession started. The high levels of debt that existed before the recession mean that investment demand is likely to be less responsive to interest rate declines. High debt levels among consumers are particularly troubling given the low responsiveness of credit card interest rates. The falling prime rate will do nothing for consumers who are bumping against the limits of their credit cards. Office vacancy rates were likewise very high before the recession began. Perhaps most important, the gap between rich and poor -- at its widest since statistics were first collected -- and the decline in most workers' real earnings will lengthen the current recession. The economic well-being of individual consumers is critical given that about two-thirds of G.N.P. is personal consumption. Given these factors, the recent return of consumer confidence does not mean that people suddenly have money to spend the economy out of the recession.

Although many forecasters anticipate a brief recession, it is worth recalling some recent history. The forecasters were badly wrong in estimating both the severity and the length of the recession in the early 1980s. In August of 1981, the Blue Chip Consensus was that the last quarter of 1981 and the first quarter of 1982 would see GNP grow 2.6 and 3.8 percent, respectively. The actual figures were declines of 5.5 and 5.9 percent for those quarters. As late as December of 1981, the consensus forecast said the first quarter of 1982 would see a GNP decline of only .8 percent, a full 5.1 percentage points too high. In May of 1982, the consensus was that unemployment had already peaked at 9.2 percent. Six months later, the unemployment rate was 1.5 percentage points higher.

It is a cruel irony that many forecasters are likely to overestimate the countercyclical power of unemployment insurance. Already, between June 1990 and January 1991, the number of unemployed have been out of work 26 weeks or longer has increased 29 percent. This long term unemployment has grown 11 percentage points faster than total unemployment during the same period. Thanks to many of the restrictions adopted in the 1980s, the ability of unemployment insurance to pull the economy out of recession has in fact been dramatically reduced. Gary Burtless of the Brookings Institution found that the countercyclical stimulus of unemployment insurance is currently at least one-third lower than in the 1960s and 1970s. A Joint Economic Committee report similarly estimates that lost income is being replaced only half to two-thirds as effectively as in past recessions.

The idea of a "brief" recession holds little comfort for many of its victims. In the last recession, as John Bregger of the Bureau of Labor Statistics recently testified, long-term unemployment peaked six months after the recession ended. The end of this recession promises to arrive without fanfare. On March 10, 1991, the Blue Chip Consensus forecast was for .1 percent GNP growth for the year ahead. Given the record on forecasting, the reality is likely to be even more tepid. Even if the historically optimistic forecasters are correct, the problem of long-term unemployment will persist for many workers.

Help For The Long Term Unemployed

In recent years, the long term unemployed have been without an effective extended benefits (EB) program. Under the EB program, a jobless worker who has exhausted all regular state benefits may receive up to 13 additional weeks of benefits. EB is intended to ease the additional hardships which fall on unemployed workers during a serious downturn in the economy. When hard times are widespread, the length of unemployment spells increase as jobs become more scarce. EB helps fill the gaps which occur when state benefits are exhausted during a recession.

The effective elimination of EB has undoubtedly contributed to the decline in the proportion of the unemployed receiving unemployment insurance. One step which would reverse the decline in the proportion of the unemployed receiving unemployment insurance would be the adoption of an effective replacement for EB.

H.R. 1367 proposes the adoption of a new federal supplemental compensation program to replace EB. The UAW strongly supports this feature of H.R. 1367.

Specifically, the federal financing of benefits beyond the basic 26 weeks of regular state benefits is a positive feature. Under the EB system, states are forced to pay one-half the cost of extended benefits, placing additional strains on their trust funds at the same time that the state economy is suffering from high unemployment. This, in turn, placed additional pressures on the state's regular unemployment insurance program, and contributed to the need for further program reductions or increases in payroll taxes for the state's employers. As a result, states which were experiencing high unemployment due to national economic conditions were forced to bear a disproportionate share of the costs of providing assistance to their long term unemployed.

In addition, using the Total Unemployment Rate (TUR) as a trigger for supplemental benefits should provide a more realistic measure of unemployment. We believe the triggers as proposed in H.R. 1367 are set at appropriate levels which will enable the program to operate when unemployment reaches high levels within a state. Providing a staggered tier of additional weeks of supplemental benefits as unemployment reaches unusually high levels, as proposed in H.R. 1367, is also a wise measure. When unemployment levels reach very high levels, by definition, work is scarce and additional weeks of benefits are needed to assist unemployed workers until such time as the economy again provides work for them.

In order to finance the proposed supplemental compensation program, H.R. 1367 provides for a much needed increase in the federal taxable wage base. Ten years ago, the National Commission on Unemployment Compensation -- made up of representatives from labor, business and the public -- recommended that the federal taxable wage base be indexed at 65 percent of the average annual wage. It was suggested that this indexing be phased in over a period of seven years. If the Commission recommendation had been adopted, the current taxable wage base would be more than $14,100. In 1939, 98 percent of wages were subject to unemployment insurance taxes. Today it is less than 40 percent.

Given the current federal budgetary situation -- which requires proceeding on a pay-as-you-go basis -- an increase in the FUTA taxable wage base is the most logical method of providing the revenue necessary to help the long-term unemployed and restore the countercyclical effects of unemployment insurance. In the long run, the bill provides for a reduction in the effective FUTA tax rate from .8 to .3 and will result in a more progressive FUTA tax system.

In short, the UAW fully supports the proposed federal supplemental compensation program and the raising of the FUTA taxable wage base to the Social Security level as provided by H.R. 1367.

The Need For Federal Standards On State Programs

In our February 20 testimony, the UAW summed up the unemployment insurance situation confronting us as follows:

> We are entering this recession with our unemployment compensation system in its worst shape ever. Trust funds in many states have inadequate reserves, state and federal legislative actions have cut the proportion of the unemployed eligible for unemployment benefits, and benefits are too low to adequately assist those who receive them.

We also pointed out that workers in Canada, the United Kingdom, France, and Germany receive much better protection from their nation's unemployment compensation systems than unemployed workers in the United States. In the UAW's view, U.S. workers deserve a similar level of assistance to those in Canada and Europe.

Our prior testimony included a comparison of those states which paid benefits to the highest proportion of their unemployed workers in the 1980s and those states which paid the lowest proportion. This comparison showed that the lowest states have much stricter monetary eligibility provisions and stricter disqualification penalties. In the current recession, we can expect states to further restrict their unemployment insurance systems in order to offset the increased benefits paid to the hundreds of thousands of newly unemployed workers, continuing the declining pattern set in the 1980s.

State restrictions contributed importantly to the deterioration in our unemployment insurance system during the 1980s. The time has come to reverse these trends and restore our unemployment compensation system's ability to protect jobless workers and to counteract an economic downturn. In order to accomplish these national goals for the unemployment insurance system, Congress must adopt federal standards to limit state restrictions which, in turn, defeat the national goals of unemployment insurance. Without federal standards, Congress cannot expect the states to resist the political pressures and economic realities which have led us to our present sorry situation.

H.R. 1367 contains a number of important limitations on the state's discretion to adopt strict disqualification penalties. The most important of these are the provisions in Section 201 of the bill which prohibit states from imposing more than a 10-week delay in the receipt of benefits and limit the use of durational disqualifications in many cases. In addition, the bill would stop states from cancelling wage credits or benefit rights in many cases and prohibit the disqualification of a worker for reasons unrelated to his or her most recent separation from work. We believe a convincing case can be made for the adoption of all the limitations contained in Section 201 of the bill as well as for additional federal standards for state unemployment insurance laws. Before discussing the proposed federal standards for state programs in H.R. 1367 in detail, we offer a brief history of the debate on federal standards in our federal-state unemployment insurance system.

A Brief History Of The Debate Over Federal Standards In UI

Not surprisingly, the proposed standards in Section 201 of H.R. 1367 are not the first time that federal standards for state unemployment insurance programs have been considered. At the outset, many experts in the early 1930s were convinced that a national unemployment insurance system was superior to a federal-state system. In the end, a federal-state system was adopted, in large measure due to concerns that a national system would have been ruled unconstitutional by the U.S. Supreme Court.[1] Nevertheless, the Committee on Economic Security noted its reservations about the compromise in 1935, stating:

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[1] William Haber and Merril G. Murray, Unemployment Insurance In The American Economy, (Kalamazoo, Michigan. The Upjohn Institute, 1966), p. 81. (hereafter "Haber and Murray"); Daniel Nelson, Unemployment Insurance: The American Experience, 1915-1935, (Madison, Wisconsin. University of Wisconsin Press, 1969), pp. 206-207, 210-211.

> A federally administered system of unemployment compensation is undoubtedly superior in some respects, particularly in relation to employees who move from State to State...We recognize also that in other respects State administration may develop marked inadequacies. Should these fears expressed by the champions of a federally administered system prove true, it is always possible by subsequent legislation to establish such a system....Accordingly, the Congress can at any time increase the requirements which state laws must fulfill and may, if it sees fit, at some future time, substitute a federally administered system for the cooperative Federal-State system we recommend.[2]

By 1942, the Social Security Board, which at that time was the federal partner in the unemployment insurance system, was openly advocating a national system. In 1943 and 1945, bills supported by organized labor were introduced which called for a national unemployment compensation system with uniform benefits of 26 weeks in duration.[3]

Soon after these efforts failed, the focus shifted from a nationally administered unemployment compensation system to improved federal standards for state administered systems. In 1950, President Truman sent a message to Congress which advocated federal minimum standards for unemployment benefit amounts, the duration of benefits, maximum qualifying requirements, and limits on disqualifications. A bill (H.R. 8059) was introduced, and hearings were held before this Committee, but the bill died in the subcommittee.[4]

Beginning in 1954, President Eisenhower's Economic Report advocated that states raise their maximum weekly benefits in order that the "great majority" of claimants would receive benefits equal to at least half their earnings. This recommendation was supported by the Department of Labor and the Federal Advisory Council on Employment Security. At the same time the President was urging the states to act, the UAW was advocating federal standards as a necessary step to ensure adequate benefits.[5]

In 1959, a federal standards bill (H.R. 3547) was introduced by Representative Frank Karsten of Missouri. The bill provided for a state maximum weekly benefit of a least two-thirds the state average weekly wage, a duration of 39 weeks of benefits, qualifying wages of not more than 20 weeks of work, and a prohibition against the reduction or cancellation of benefit rights in disqualification provisions. The bill failed by a single vote before the Ways and Means Committee.[6]

In 1965, President Johnson sent a message to Congress calling attention to the need for improvements in the unemployment compensation system. A bill (H.R. 8282) was introduced which proposed a number of federal standards for states in administering their unemployment insurance systems. The bill would have prevented states from requiring more than 20 weeks of work for 26 weeks of benefits, required a state weekly benefit rate no less than two thirds of the state's average weekly wage, and limited disqualification penalties to no more than 7 weeks for everything but fraud, conviction of a work-connected crime, and participation in a labor dispute.[7]

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[2] Report of the Committee on Economic Security, reprinted in Economic Security Act, *Hearings Before the Committee on Finance on S. 1130*, Senate, 74th Cong., 1st Sess. (January 22 to February 20, 1935) at 1323.

[3] Haber and Murray, pp. 441-442.

[4] Haber and Murray, pp. 442.

[5] Haber and Murray, pp. 197, 442; "Statement On Pending Unemployment Compensation Amendments By The International Union, UAW," Unemployment Insurance, *Hearings Before the Committee on Ways and Means*, House of Representatives, 83rd Cong., 2d Sess. (June 8-11, 1954), pp. 272-274.

[6] Haber and Murray, pp. 442-443; Unemployment Compensation, *Hearings Before the Committee on Ways and Means*, House of Representatives, 86th Cong., 1st Sess. (April 7-15, 1959).

[7] H.R. 8282, Sections 209 and 211, printed at Unemployment Compensation, *Hearings Before the Committee on Ways and Means*, House of Representatives, 89th Cong., 1st Sess. (August 9, 1965) pp. 27-30.

UAW President Walter Reuther testified in support of H.R. 8282 before this Committee on August 25, 1965, over a quarter of a century ago. He stated, in part:

> [W]e believe that Federal standards are essential. Every time you go to a State Capital and you talk to the legislature about improving unemployment insurance you can get most people to agree in the State bodies that you need higher levels. But they inescapably come around to the argument that 'We can't raise our levels any higher because we will place upon the industries in our States an unfair economic burden and therefore we will not be in a position to compete with comparable industries in other States that have a lesser burden in terms of their unemployment insurance structure.'
>
> It seems to me that it is morally indefensible for a nation like America to permit the denial of that measure of security and justice to which a worker and his family ought to be entitled and make this the basis for unsound and unfair economic competition between the States. Only as you raise the level of Federal standards so that every State must meet these basic minimums can you meet the problem within the framework of the Federal-State system.[8]

Although the proposed federal standards in H.R. 8282 were not adopted, Walter Reuther's testimony remains true as ever today.

In 1969, President Nixon proposed a permanent extended benefits program and other unemployment insurance measures. As part of his message to Congress, President Nixon took note of President Eisenhower's 1954 recommendation that states raise their benefits and again called on states to act to raise their maximum benefit amounts. He stated:

> Up to now, the responsibility for determining benefit amounts has been the responsibility of the States. There are advantages in States having that freedom. However, the overriding consideration is that the objective of adequate benefits be achieved. I call upon the States to act within the next two years to meet this goal, thereby averting the need for Federal action.[9]

In 1973, President Nixon proposed a bill to require states to pay a jobless worker 50 percent of his average weekly wage up to a maximum benefit amount equal to two thirds of the state's average weekly wage. The proposal was included in the Job Security Assistance Act of 1973, a bill (H.R. 8600) that was introduced by Representatives Wilbur D. Mills and Gerald R. Ford in June 1973. The bill was not enacted.[10]

The recession of 1974-75 produced the highest levels of unemployment to that date since the depression of the 1930s. As a result, historic highs were reached in terms of benefits paid and state borrowing to pay those benefits. To address these problems, Congress created the National Commission on Unemployment Compensation in 1976.

Among the issues debated by the National Commission were the federal-state partnership and the role of federal standards. The Commission, in its comprehensive report of July 1980, made recommendations that Congress adopt federal standards to establish a state weekly benefit rate which replaced 50 per cent of the worker's average wages, a maximum benefit equal to two thirds of the state's average weekly wage, a ceiling of 39 weeks of work to receive 26 weeks of benefits, and a prohibition on any cancellation of benefit rights except for fraud and receipt of disqualifying income. The Commission also made a recommendation to the states similar to the proposed federal standard concerning benefit adequacy, and recommended that the states not employ durational disqualifications requiring rework or earnings to end a disqualification. In addition, the Commission opposed the cancellation or reduction of benefit rights for any reason but fraud or receipt of disqualifying income.[11] The recommendations of the National Commission were never given serious consideration by the states or in Congress.

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[8] Unemployment Compensation, *Hearings Before the Committee on Ways and Means*, House of Representatives, 89th Cong., 1st Sess. (August 25, 1965) p. 1418.

[9] Message from the President of the United States, House Document No. 91-135 (July 8, 1969), printed in Unemployment Compensation, *Hearings Before the Committee on Ways and Means*, 91st Cong., 1st Sess. (October 1-7, 1969) p. 11.

[10] National Commission on Unemployment Compensation, Unemployment Compensation: Final Report (Washington, D.C. Printing Office, July 1980) pp. 39-40.

In considering the issue of federal standards, it is important to remember that in the late 1970s and early 1980s, Congress effectively imposed a number of restrictions on regular state unemployment programs through the extended benefits program. Congress also imposed a pension offset on the states during this period. In taking these actions, Congress and the Executive Branch have demonstrated that federal standards to restrict the unemployment insurance system are an acceptable means to reach policies deemed important by the proponents of these restrictions. In our view, the enactment of these restrictions demonstrates that the debate over national standards is not whether standards are permissible legislative means to an end, but whether the standards will assist the achievement of important national policies.

In this respect, we call the Subcommittee's attention to the observation of the Chair of the National Commission, Wilbur J. Cohen, in his introduction to the Final Report:

> . . .I urge the Congress to beware of the traditional attack on a particular proposal as "an entering wedge of federalization." . . . The existing Federal-State system of unemployment compensation is unique. It is already part Federal and part State. It is a hybrid system. It already contains the elements of both Federal and State taxation, a 100 percent Federal grant for State administration, a number of Federal benefit and other standards, and explicit and restrictive Federal requirements for State employer experience rating. The issue is no longer the question of Federal standards in the system as a matter of principle. There are Federal standards in the Federal law. I suggest it is now a question of what are appropriate standards in the Federal law and appropriate standards in State laws. I hope it will be possible to rise above narrow parochial interests and improve both the Federal and State laws for the overall benefit of the national interest. That is a paramount concern for the 1980s and the long-run future.

In summary, the history of our federal-state unemployment insurance system is a history of debate concerning the need for national standards on state programs. The ground covered here by H.R. 1367 is well-travelled. Since the outset of unemployment insurance, the states have contended that they can be trusted with the responsibility for the basic contents of the unemployment insurance system. This argument once again carried the day before the National Commission, which directed the bulk of its recommendations to the states. The last decade provides clear evidence that, in the absence of federal standards, the states will be forced to continue to compete with each other in terms of unemployment insurance costs. As a result, the record is clear that our nation's unemployment insurance system will never provide workers with the basic economic protections to which they are entitled by virtue of their prior work experience.

The Case For Adopting The Federal Standards Of H.R. 1367

Sadly, over the last decade our unemployment compensation system has moved in the opposite direction from that recommended by the National Commission. As we discussed in detail in our prior testimony, the majority of states adopted tighter earnings requirements or tougher disqualification penalties to avoid or reverse solvency problems in the 1980s. The penalty situation has moved from that in 1937, when one state imposed a durational disqualification for voluntary quit cases and two did so for misconduct discharges, to today's situation where 47 of the 51 jurisdictions use durational penalties for voluntary quits and 39 do so in misconduct discharges.

H.R. 1367 would address some of the problems caused by restrictive state disqualification provisions. We note at the outset that we do not question that, under our current scheme of unemployment insurance, the voluntarily unemployed (i.e. those who quit, are fired, or refuse work) should be subject to some penalties before receiving benefits. The question is one of degree and proportionality.

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[11] National Commission on Unemployment Compensation, Unemployment Compensation: Final Report (Washington, D.C. Government Printing Office, July 1980), pp. 3-4; reprinted in Congressional Research Service, Federal-State Unemployment Compensation System, Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means, 100th Cong., 2d Sess. (September 8, 1988), Appendix D, pp. 468-471.

One critical limit in the bill is the elimination of most durational disqualifications. This action would be consistent with the recommendation of the National Commission to the states in 1980, a recommendation which has been universally ignored by the states.

In the early years of the unemployment insurance system, virtually all the penalties for disqualifications involved a suspension or delay in the payment of benefits. Typically, a six or seven week denial period was imposed for voluntary quits, misconduct discharges, or refusals of work. These types of penalties were found in the model bills promulgated by the Social Security Board in 1936 and used as a pattern for state unemployment insurance legislation. More recently, the Johnson Administration's proposal in 1965 (H.R. 8282) contained a seven week limit on disqualifications for all acts except fraud, work-connected crime, and labor disputes.

Despite the belief of many experts that these denial period penalties were sufficient, the use of the durational disqualifications has spread steadily.[12] In 1990, 1,080,244 individuals were disqualified for voluntarily leaving and 649,968 workers were subject to misconduct discharge penalties. The majority of these individuals were subjected to durational disqualifications. While these penalties were significant in terms of each individual's case, this number is not significant in terms of its overall impact on the system. In our view, the proposed limitations on durational disqualifications will reduce the instances of individual injustices imposed under our current penalties without greatly increasing the overall costs to employers.

Another inequity in the present system is the wide disparity in the amount of work or earnings required by states to satisfy the requalification requirements of their durational disqualifications. As a result, a worker in New Jersey waits five weeks for benefits after a voluntary quit, while a worker in Virginia must work for 30 days and a Florida claimant must earn 17 times his or her weekly benefit amount to end a disqualification. Basic fairness does not support this degree of difference in treatment merely because the claimants live in different states. A federal limit on state discretion would move us toward more uniform treatment. The UAW supports the provisions of H.R. 1367 which would eliminate the use of durational disqualifications in unemployment insurance in many cases.

The UAW is aware of many instances in which a voluntary leaving disqualification is imposed under circumstances which do not warrant any penalty, let alone a durational disqualification. For example, most states limit good cause for leaving to reasons related to work. As a result, workers who quit work for compelling personal reasons are disqualified when they are again able to work.[13] A particularly outrageous situation is faced by women who leave work to have a baby and whose employers do not permit them to return to work after the birth. In these cases, the women are treated as a voluntary quit in those states, which treat unpaid leaves of absences as quits. See Wimberly v. Labor and Industrial Relations Comm'n, 479 U.S. 511, 516 n.2 (1987). In most other quit cases, while some penalty is deserved, a durational disqualification is simply too stern when the economic hardship imposed by weeks of unemployment without benefits is taken into consideration.

H.R. 1367, as introduced, still permits durational disqualifications of individuals discharged for work-connected misconduct. We urge a reconsideration of this treatment of fired workers. The National Commission did not include misconduct discharges among the acts which it recommended be subject to durational disqualifications. In fact, our observation of current state laws would indicate that in states which differentiate between quits and discharges, quits are generally treated more severely than discharges.

At first glance, those who are fired from their jobs may seem unworthy of Congressional consideration, but this ignores the creativity of state legislatures and agencies in administering the misconduct disqualification. Recently, the case of a woman in Minnesota who was fired because she had to miss work to care for a sick child received national attention. The woman was disqualified for misconduct by the Minnesota agency, a result which was ultimately reversed months later by a divided panel of the Minnesota Court of Appeals. **McCourtney v. Imprimis Technology**, Minn. App. No. C6-90-2000, 1991 Minn. App. LEXIS 230 (March 12, 1991). The legislature recently amended the Louisiana misconduct disqualification provision to include job "mismanagement" through "action or inaction" and "neglect" that jeopardizes the property of others. Louisiana Revised Statutes, 23:1601(2)(a). These actions do not meet either the classic legal test for misconduct or the policy test of voluntary unemployment.[14] In Pennsylvania, the courts upheld the disqualification of an express package service delivery driver who was fired for inadvertent errors in coding his packages. **Slade v. U.C. Board of Review**, Commwlth Ct. No. 1556 C.D. 1987 (June 28, 1988); aff'd without opinion; 524 Pa. 242; 570 A.2d 508 (March 2, 1990). These cases are some examples of situations in which a durational disqualification is not justified, in our view, and which will remain possible under the current bill.

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[12] The basic distinction in penalty provisions lies between states which disqualify claimants for a period of weeks of unemployment ("suspension or denial period") and those which require a claimant to find work and earn specified wages, sometimes for a specific number of weeks, in order to terminate the disqualification ("durational or full spell disqualification"). This latter type of disqualification provision is termed a "durational disqualification" because it operates to deprive claimants of benefits for the entire duration of a spell of unemployment. In other words, the unemployed must work before they again qualify for unemployment benefits.

[13] One example is **Fifer v. Missouri Division of Employment Services**, 665 S.W. 2d 81 (Mo. App. 1984). Ms. Fifer missed two months of work due to pneumonia and flu. When she returned to her job as a store clerk, she found that the position was filled. Since Missouri limits good cause to job-related reasons, she was disqualified for voluntarily leaving her work. Similar cases arise when workers leave work to care for a sick spouse, child, or parent.

There is a second reason for not permitting durational disqualifications for misconduct discharges, while prohibiting them for voluntary leaving cases. Past experience in states with differential penalties between the two indicates that there will be considerable litigation over the question of whether the separation from work was a quit or a discharge. Since the outcome of the work separation issue becomes critical to the question of the penalty imposed, employers will argue that separations were discharges while claimants assert they were quits. In many cases, the distinction between a quit and a discharge is very fine, and the differences in terms of the voluntariness of the unemployment does not justify the difference in penalty, in our view.

While urging the inclusion of misconduct discharges among those acts for which states cannot impose a durational disqualification, the UAW would agree that in some cases of misconduct a more severe penalty is acceptable. We believe that the formulation of H.R. 8282--conviction of a work connected crime--would properly define the cases of theft, assault, and other types of work-related gross misconduct deserving of stricter treatment.

The bill, as introduced, gives the states complete discretion to set the level of punishment for those acts excluded from the prohibition on durational disqualifications (currently, misconduct discharges, fraud, and receipt of disqualifying income). At the very least, the UAW suggests that the bill include a limit on misconduct discharge penalties of no more than six weeks with earnings equal to the weekly benefit amount (6 X 6) for requalification.

While we support the elimination of durational disqualifications, we also question the 10 week denial period permitted in the current bill. A federal maximum is likely to become a state minimum and ten weeks is more than the best states currently impose for a denial period. Instead, we believe that 6 weeks, that is, one and one half months without benefits, is an adequate duration for most disqualifications. Ten weeks is two and a half months. In a period of this length, no matter how voluntary the worker's unemployment initially was, it has clearly been transformed into involuntary unemployment in 6 weeks in all but a microscopic number of cases. We therefore recommend that the Subcommittee reduce the number of weeks of benefit denial permitted from ten weeks to a maximum of six weeks.

Current law forbids a state from cancelling wage credits or totally reducing benefit rights for any action other than discharge for misconduct, fraud, or receipt of disqualifying income. 26 U.S.C. §3304(a)(10). Obviously, many of the states have misused the flexibility granted to them under current law to adopt overly punitive disqualification provisions. As a result, a disqualified worker who manages to satisfy his requalification requirement by finding work will still be faced with a reduction or cancellation of benefit rights earned on the prior job in several states. This goes well beyond reason or justice, in our view. We, therefore, support the proposal in H.R. 1367 which would prohibit the cancellation or reduction in benefit rights or credit weeks in most cases.

In addition, in the event that the bill is not modified to stop durational disqualifications in the case of misconduct discharges, we strongly urge the Subcommittee to forbid the reduction of benefit rights of workers disqualified for misconduct discharges. The National Commission recommendation did not support permitting states to impose this harsh penalty in any case other than fraud or receipt of disqualifying income. The Subcommittee would be well advised to follow the Commission's guidance on this point.

The limitation of disqualifications to those relating to the most recent separation from work is a significant step toward equity in a number of states. These states do not limit a disqualification to the separation which has resulted in the current unemployment, but include any separation in the base period (up to 18 months prior to the claim). H.R. 1367 would properly prohibit any disqualification for separations other than the most recent separation from work.

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[14] Haber and Murray, pp. 297-298.

As a result of such broad state disqualifying provisions, a worker who quits a job to accept a better one and who loses the second job due to a layoff or other non-disqualifying reason is disqualified as a result of the earlier separation. An example is furnished by Patrick Lafferty, an Indiana resident who quit his job to accept a better paying job which was suggested to him by the Indiana Department of Employment and Training Services. After four weeks, Mr. Lafferty was discharged by his second employer for reasons found not to amount to misconduct by the Indiana agency. Despite being involuntarily unemployed, Mr. Lafferty was disqualified from benefits because Indiana law requires that those who quit a job in the expectation of finding better work must hold that job for ten weeks in order to avoid a durational disqualification. Mr. Lafferty lost his case before the Indiana Board of Review (Case No. 90-A-7097) 90-R-1112 (September 21, 1990). Mr. Lafferty's case is currently on appeal to the Indiana Court of Appeals.

A second type of case affected by disqualification provisions which are not limited to the most recent separation involves spouses who quit work to accompany a spouse transferred to a new area for work. If the quitting spouse finds work immediately in the new area, and is later laid off from the new work, the earlier quit disqualification is then imposed to deny benefits. This is unfair. The UAW supports the limitation of disqualifications to the most recent separation from work.

In short, the provisions of Section 201 of H.R. 1367 are prudent federal standards which are justified by the record established by the states over the last 55 years. We urge the Subcommittee to approve them, along with the UAW's suggested improvements.

Additional Federal Standards

H.R. 1367 contains federal standards which would address many of the most unjust features of state unemployment insurance disqualifications. However, as currently proposed, the bill does not address two areas of state restrictions which have had an important role in reducing the proportion of the unemployed receiving benefits. Accordingly, the UAW recommends two additional federal standards to increase the proportion of the unemployed who receive unemployment benefits.

In the eleven years since the National Commission made its recommendation concerning a national standard for benefit adequacy, the need for its adoption has also grown. The national benefit replacement rate declined from 36.1 percent in 1979 to 34.9 percent in 1988. (At the time of Walter Reuther's 1965 testimony, the national replacement rate which concerned Mr. Reuther and some members of the Congress was 42 percent.)

The enactment of a federal benefit adequacy standard, in conjunction with a trust fund solvency standard, would be an important step in addressing the shortcomings of today's unemployment insurance system. In the absence of a benefit adequacy standard, some states will reach solvency by restricting benefits. In the long run, this will prevent the unemployment insurance system from achieving its goals of providing a sufficient level of benefits to assist unemployed workers and their families while at the same time boosting the economy by maintaining purchasing power.

H.R. 1367 encourages states to increase their trust fund balances by offering better interest treatment for higher trust fund balances. The UAW supports this feature. However, simply encouraging state trust fund solvency will not move the unemployment compensation system in the right direction. Unless a federal standard for benefit adequacy is also adopted, many states will reach solvency by restricting their programs. In fact, there is some evidence that this is already the situation. Seven states had high cost multiples over 1.5 in fiscal year 1990. Of these seven states, South Dakota and Oklahoma ranked in the bottom five states and Mississippi and New Mexico ranked in the bottom eleven states in terms of the proportion of their unemployed receiving a benefit. In other words, these states have achieved solvency, at least in part, by reducing the scope of their unemployment insurance programs.

As we discussed earlier, Presidents Truman, Eisenhower, Johnson, Nixon, and Ford (as a Representative), as well as many experts, have long supported adequate benefits as essential to the national goals of the unemployment insurance system. The commonly accepted standard was adopted by the National Commission: a maximum benefit of two thirds of the state's average weekly wage with a weekly benefit equal to 50 percent of the individual's weekly wage. After 55 years, the states have been too trapped by interstate competition over unemployment insurance costs to reach this level. The UAW asks that Congress adopt a national standard for benefit adequacy as part of H.R. 1367.

In addition, the UAW believes that the Congress should enact a federal standard which sets a floor below which states cannot go in restricting monetary eligibility for their unemployment insurance programs. In our view, a worker who works 20 hours at the minimum wage job for 14 weeks, should not fall below this floor. Keep in mind that low wage or part-time workers will get lower benefits, often for shorter durations, than higher wage workers with greater labor market participation. However, these low wage workers should not be completely excluded from our unemployment insurance system, as they currently are in many states. We also urge the consideration of a federal standard on monetary eligibility as a means to reverse the decline in the receipt of unemployment benefits over the last decade.

Other Positive Features of H.R. 1367

The UAW offers these comments regarding the remaining features of H.R. 1367.

- In order for the unemployment insurance system to work effectively for unemployed workers, their employers, and the affected communities, state employment security agencies must have adequate administrative funds. The UAW supports an adequate level of administrative funds tied to current workload indicators and automatically supplemented in the case of increases in workload as provided by the bill. The current system has underfunded state agencies for a number of years and should be revised by the enactment of H.R. 1367.

- Nonprofessional educational employees who are unemployed during summer recesses through no fault of their own should not be deprived of unemployment insurance without a written, legally-enforceable assurance of reemployment from their employers. Current federal law requires bus drivers, janitors, clerical, and other nonprofessional school employees to file claims, seek work, and otherwise comply with UI eligibility requirements, with a retroactive payment of benefits made in the event that reemployment does not materialize in the fall. The retroactive payment of unemployment benefits, if reemployment does not occur, is no substitute for the timely payment of benefits. The revision of this law would provide greater justice to nonprofessional school employees. The bill gives states the option to treat nonprofessional educational employees more favorably, and the UAW supports this step toward greater fairness to these employees.

- In some states, the courts have utilized unemployment insurance decisions to prevent workers from pursuing employment-related lawsuits. These courts applied the doctrine of collateral estoppel. Denying collateral estoppel effect to the decisions of state UI agencies preserves the informality and speed essential to the UI appeals process. We support the proposed language preventing the application of collateral estoppel.

Conclusion

Mr. Chairman, the decade of the 1980s was a decade of decline for our nation's unemployment insurance system. The Unemployment Insurance Reform Act of 1991 is a vital step toward reversing that decline. The enactment of the proposed supplemental compensation program will greatly assist the hundreds of thousands of workers who will exhaust their regular benefits during the current recession. In addition, the time has come to reverse the decline of our unemployment insurance system and restore its effectiveness as an income maintenance and countercyclical program by adopting the federal standards contained in H.R. 1367, with the modifications suggested here.

Mr. Chairman, the UAW once again wishes to commend you, along with Representatives Pease and Levin, for your leadership in introducing H.R. 1367. We pledge to work with you for its prompt enactment.

Acting Chairman **Downey**. Thank you, Mr. Reuther.
Mr. Adler.

STATEMENT OF RONALD L. ADLER, MEMBER, COUNCIL ON UNEMPLOYMENT COMPENSATION, U.S. CHAMBER OF COMMERCE

Mr. **Adler**. Thank you, Mr. Chairman and members of the subcommittee.

My name is Ronald Adler, and I am testifying on behalf of the U.S. Chamber of Commerce. I am president of Laurdan Associates, Inc., a management consulting firm specializing in employment and unemployment issues. I am a member of the chamber's unemployment compensation council, and I am an appointee to the State of Maryland's advisory council.

Employers share your interest in the Federal-State UI system. We share your consternation with inadequate UI program financing, particularly since employers have met their obligation and paid their taxes. We share your frustration and the frustration of eligible laidoff workers who must wait in line for hours, and then wait weeks for their first benefit check.

We share the Nation's disillusionment with the UI program breakdown, a breakdown that is caused not by inadequate funding, but by budgetary hocus-pocus. Mr. Chairman, we also share your desire to see that our veterans are treated equitably.

Over the last couple of months, we have heard the assertion made, and made repeatedly, that unemployed persons are not receiving benefits to which they have a right. Two studies focusing on the gap between the total unemployed persons and those receiving benefits disprove this allegation.

This subcommittee heard testimony on the study by Wayne Roman, of the Urban Institute, which found that 83 percent of the unemployed surveyed either quit their last job or had not worked long enough to meet the minimum qualifying requirements. A study by the Congressional Research Service further found that many unemployed workers had little recent work experience.

The UI system was designed to serve those individuals temporarily unemployed through no fault of their own and who can demonstrate a strong attachment to the labor force. This group does not include workers who voluntarily quit their jobs without good cause, were discharged for misconduct, are new entrants or reentrants to the labor market, or are long-term unemployed who have exhausted their benefit eligibility.

The studies just mentioned indicate that, under the rules which have governed the UI system for the last 50 years, those who should receive benefits do. What seems to be contemplated in H.R. 1367 is a different world, a different program, in which any person who currently does not have a job is compensated by the Government. We are headed in the direction of massive new social welfare program based on need, rather than eligibility. This is not a function of the employer-financed UI system.

The chamber supports the existing extended benefits program, financed jointly by State and Federal unemployment taxes. Criticism of this program centers on the perception that not enough workers are receiving UI benefits. This system seems to jettison the eligibility requirements in favor of a manifest entitlement.

The chamber further opposes attempts to federalize the UI program. The system was established as a Federal-State partnership, which grants to the States the freedom to determine the amount and duration of cash benefits, conditions of benefit qualification, methods of employer experience rating, and related matters. The chamber endorses this division of responsibility. Each State knows best its unique economic and social conditions and, therefore, has created programs tailored to its own short-term and long-term needs.

H.R. 1367 seeks to interfere in this area by setting up a schedule of differential interest rates, based on State trust funds' adherence to Federal solvency standards. This is particularly disturbing, in that the high-cost multiple built into these standards is a static measure of dynamic situations.

H.R. 1367 seeks to further impose standards on claimant disqualifications, allowing a person who quits their job for purely personal reasons to collect unemployment insurance benefits under a 10-week delay.

As usual, with expensive UI reform proposals, employers are expected to foot the bill. This time, the proposal is for a mammoth employer tax increase. It claims to balance this increase by a reduction in tax rates, a reduction that does not come even close to offsetting the more than sevenfold multiple of the taxable wage base. Even using an average annual wage of $22,500, rather than the maximum amount, employers will still pay a threefold increase in Federal UI taxes.

The observation has been made that employers do not really pay UI taxes, and, therefore, the amount of the tax is really immaterial. In talking with employers, I think you will find that this would come as a great surprise. It is the individual employer who fills out the forms, who writes the check, and then realizes that he has less funds for operation and research and other investment activity.

It is true, perhaps, that in the long run employers may pass on the cost of labor and other cost elements, but often that is done in the cost of higher prices to the consumer, fewer jobs, and a decreased ability to compete in a competitive world environment. The chamber cannot favor that type of passthrough.

If unemployment is to ever end, new jobs must be available and created. Yet, unfortunately, this proposal would dramatically increase the cost of labor and, thus, serve as a powerful inhibitor to both job creation and economic recovery.

The chamber continues to support the strong UI system which we have had for the last 50 years, a system that pays for benefits to individuals temporarily unemployed through no fault of their own. The system is designed to remove workers from the jobless rolls as quickly as possible, and to provide incentives to return to work, not lengthen the duration of unemployment.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT
on
THE UNEMPLOYMENT INSURANCE REFORM ACT OF 1991
before the
SUBCOMMITTEE ON HUMAN RESOURCES
of the
HOUSE COMMITTEE ON WAYS AND MEANS
for the
U.S. CHAMBER OF COMMERCE
by
Ronald L. Adler
March 21, 1991

Mr. Chairman and members of the Subcommittee, my name is Ronald L. Adler, and I am testifying today on behalf of the U.S. Chamber of Commerce. I am President and CEO of Laurdan Associates, Inc., a management consulting firm specializing in work force and employment issues. I am a member of the Chamber's Council on Unemployment Compensation and of the State of Maryland's Unemployment Insurance Advisory Council.

The Subcommittee's interest in the unemployment insurance (UI) system is well-established. Over the years, it has brought forth a number of proposals to reform the system, perhaps none as sweeping as that under discussion today, H.R. 1367, the Unemployment Insurance Reform Act of 1991. We appreciate the opportunity to offer the Chamber's views on this legislation. Chamber members, large and small, have a vital stake in the UI system, which not only is financed by employers but also serves to stabilize employment and to sustain purchasing power during economic downturns such as the one we are experiencing now. The Chamber is committed to assuring the viability of this UI system, a federal-state partnership designed to serve the needs of employees and employers alike.

Unemployment Rates

At his March 11 press conference, the Chairman likened the UI system to an umbrella full of holes, and asserted that unemployed persons are not receiving the benefits to which they have a right.

Curiously enough, two recent studies focusing on the gap between the total number of unemployed persons and those receiving benefits have tended to disprove this allegation. This Subcommittee heard testimony on a study by Wayne Vroman of the Urban Institute, which found that 83 percent of the unemployed surveyed either quit their last job or had not worked long enough to meet minimum qualifying requirements. A study by the Congressional Research Service similarly found that many of the unemployed had little recent work experience.

The UI system was, of course, not designed to serve the entire universe of unemployed individuals, but a specific subset: those temporarily unemployed, through no fault of their own, who have demonstrated a strong attachment to the work force. This group does not include workers who voluntarily quit their jobs without good cause, were discharged for misconduct, are new entrants or re-entrants to the labor force, or are long-term unemployed who have exhausted the benefits available to them by law.

In stark contrast to the historic purposes of the UI system, the Total Unemployment Rate, which includes all unemployed workers, is proposed by H.R. 1367 as the proper yardstick for determining who should receive benefits. The Chamber strongly disagrees.

Supplemental Benefits

The studies referenced above indicate that, under the rules which have governed the UI system for fifty-plus years, those who should be receiving benefits are in fact receiving them. What seems to be contemplated by H.R. 1367 is a different world, one in which any person who does not currently have a job should by compensated by the government. H.R. 1367 eases access to supplemental benefits and places severe restrictions on a state's ability to disqualify claimants -- a path that appears to lead in the direction of a massive new social welfare program based on entitlement rather than eligibility. This is not a function an employer-financed UI system can fulfill -- nor one the country can afford.

H.R. 1367 would require states to approve training for what it calls "long-term unemployment compensation recipients," i.e., those who have received UI benefits for 10 weeks or more. The Chamber is no opponent of education, training, or skill development; however, it always has preached caution in the expenditure of federal tax dollars. It is not clear on what the bill's sponsors base their assumption that the majority of UI claimants need an additional training mechanism, especially since a program for the structurally unemployed already exists under Title III of the Job Training Partnership Act (JTPA).

As it has asserted in the past, the Chamber believes that the structurally unemployed should continue to be served by JTPA. It supports the existing Extended Benefits (EB) program, financed jointly by state and federal unemployment taxes. Criticisms of that program center on the perception that not enough workers are currently receiving EB payments. Again, this seems to be a matter of jettisoning eligibility requirements in favor of manifest entitlement.

The Chamber is not insensitive to the fact that some workers do exhaust benefits before they find another job. However, even in what we all agree is a recession, exhaustion rates are not high. For January 1991, the Department of Labor reports that the mean duration of a spell of unemployment was 12.4 weeks, while the median duration was only 5.9 weeks. Both measures fall short of the 26 weeks of benefits available under the basic UI program.

Federal Standards

H.R. 1367 would limit the disqualification of claimants to a period of ten weeks for any reason other than discharge for misconduct connected with work, fraud in connection with a claim, or receipt of disqualifying income. This means that a person who decides to quit for purely personal reasons still would be entitled to 26 weeks of basic benefits at employers' expense. The Chamber finds this indefensible.

On a broader scale, the Chamber opposes attempts to federalize the UI system. The system was established as a federal-state partnership which granted to states the freedom to determine the amount and duration of cash benefits, conditions of benefit qualification, method of employer experience rating, and related matters. The Chamber endorses this division of responsibilities, inasmuch as each state knows best its unique economic and social conditions and therefore has created programs tailored to its own short-term and long-term needs.

Included in this tailored program design is an assessment of a state's own economic patterns and demands. H.R. 1367 seeks to usurp authority in this area as well by setting up a schedule of differential interest rates based on state trust funds' adherence to federal solvency standards. This is particularly disturbing in that the high-cost multiple, embraced as a solvency index by the General Accounting Office and some members of Congress, is a static measure of a dynamic situation not relied upon by the Department of Labor or most states.

UI Financing

The imposition of federal standards will increase program costs. The replacing of EB with a new and permanent Federal Supplemental Compensation program will increase program costs substantially. As is invariably the case with UI "reform" proposals, employers are expected to foot the bill -- this time to the cacophonous tune of $6 billion in 1992 alone, as calculated by the bill's sponsors.

The sponsors of H.R. 1367 propose a mammoth employer tax increase. They claim to balance this by a reduction in the tax rate, but that reduction does not even come close to offsetting a more than seven-fold multiplying of the wage base, as the table in Attachment A illustrates. Even looking at the annualized average weekly wage of $22,500 rather than the maximum taxable wage base, this increase will result in a per-employee tax of $168, a three-fold increase.

In the umbrella analogy cited earlier, the current recession corresponds to rain. A tax increase of the magnitude contemplated here has the potential to turn that rain into a deluge.

It should be remembered once again that UI benefits are intended as a stopgap, something to carry an eligible person through a spell of unemployment. If unemployment is ever to end, new jobs must be available. Yet this proposal would raise dramatically the cost of labor, and thus serve as a powerful inhibitor of both job creation and economic recovery.

The observation has been made -- and somewhat airily ascribed to "most economists" -- that employers don't really pay UI taxes anyway. This comes as quite a surprise to the small business owner who sees the figures on the quarterly reporting form, and recognizes the dollars he no longer has to finance his operations.

The assertion that UI taxes are shifted to workers in the form of lower wages ignores the fact that unemployment insurance, quite apart from the hard-cash payments it may deliver, is intended to be a benefit. And benefits are as much a part of compensation as wages are. They are not free: the Chamber's annual employee benefits survey found that benefits now account for compensation costs equal to more than one-third of direct payroll costs.

It is true that, in the end, increased costs of doing business are passed on, to the consumer and to society at large, in the form of higher prices, fewer jobs, and decreased ability to compete in the world marketplace. The Chamber cannot be expected to favor such a grim prospect.

Administrative Funding

The Chamber has for many years called for improvements in the process of delivering administrative funds to operate the UI system. To some extent, it is heartening to see that our voice, along with those of state governments, employment security agencies, and organized labor, has been heard: H.R. 1367 does at last attempt to address this problem. Unfortunately, its "solution" depends upon a wholly unreasonable tax burden, something not even remotely necessary. Rather, the problem of delivering administrative funds can be addressed within the existing UI system simply by releasing the taxes employers already have paid from the overstuffed administrative trust fund where they have been held hostage.

The Question and Answer materials distributed when this bill was introduced make the claim that a tax increase is in effect mandated by the terms of the Budget Enforcement Act of 1990, failing the President's declaration of a UI-related emergency. Yet the full House just last week passed an emergency supplemental appropriations measure incorporating $200 million to cover a UI funding shortfall. Evidently it can be done.

Conclusion

The Chamber continues to support a strong UI system for the temporarily, involuntarily unemployed. The system is designed to remove such workers from the jobless rolls as quickly as possible and to provide them incentives to return to work, not to lengthen the duration of UC benefits or unemployment.

A central crisis facing the U.S. economy in today's increasingly interdependent global marketplace is our need to improve our competitiveness in international markets. By initiating a conversion of the UI system from one based on eligibility to a massive entitlement program funded by a new $6 billion employer tax, H.R. 1367 would greatly accelerate the deterioration of the U.S. economy with respect to its international competitors.

The Chamber urges the Subcommittee to preserve the integrity of the UC system, to keep employers as a willing participant in that system, and to refrain from taking action that can only further injure an already suffering economy.

We thank you for your consideration of our views.

ATTACHMENT A: EMPLOYER FUTA TAX EXPENDITURE

Current Law	Tax Rate	Wage Base	Maximum Tax
1992-96	0.80%	$7,000	$56.00
H.R. 1367			
1992	0.75%	55,800	418.50
1993	0.60%	59,100*	354.60
1994	0.55%	62,400*	343.20
1995	0.40%	65,700*	262.80
1996	0.35%	69,300*	242.55

*Estimated

Acting Chairman Downey. Thank you, Mr. Adler.

Mr. Blue.

STATEMENT OF WARREN BLUE, CHAIRMAN, EMPLOYEE BENEFITS AND RELATIONS COMMITTEE, COUNCIL OF STATE CHAMBERS OF COMMERCE, ACCOMPANIED BY WILLIAM R. BROWN, SECRETARY AND PAST PRESIDENT

Mr. Blue. My name is Warren Blue, and I am here representing the Council of State Chambers of Commerce. I am accompanied by Bill Brown, who is the past president and now a consultant for employment purposes to the council.

We are in favor of two provisions in your bill. We are probably neutral or maybe accept the concept of two provisions, and we are opposed to two provisions. I am going to quickly go through those, if I might.

As we have testified many times before, Mr. Downey, as you know, we wanted changes made in the administrative financing provisions. The provisions in your bill accomplishes what we asked for. As you know, employers have been incensed over the years by paying not only a tax to the Federal program, but now we are being hit with taxes at the State program, to make up for the fact that we have not been able to get the Federal funds out to where they belong. So, we support this provision strongly.

The change in the law concerning veterans' benefits, we are in favor of that also. We believe there is no reason to discriminate against veterans, with long waiting periods and limitation on the benefits.

There are two areas that we are interested in the concept that you brought forth, but perhaps maybe are not positive on the way you are doing it. The job search assistance certainly is something that employers are interested in. One of the major problems employers have today is finding good, well-trained, educated employees. The age-old question is who pays for it, and I guess, speaking for the employers, we believe that it probably belongs in the general revenue fund approach, rather than hitting employers who already paying for it through the State system and would be paying for it through your new Federal supplemental compensation job search funding pocket which would be established for this. We would probably say it is a good idea, but we certainly would not look forward to making the payments necessary to support it. But, there should be money some place for this type of program.

The idea of rewarding States for maintaining adequate reserves also has merit. The problem we see is that the State has a number of ways of meeting adequate reserves besides raising taxes, and it could come back to backfire on you. It depends upon the State and how the State legislatures make decisions.

We also would question, and we have been questioning all along, the use of the high-cost multiple, and I think Ron Adler mentioned the same thing. This, in our opinion, is an outdated way of determining adequate reserves. Ohio recently looked at the high-cost multiple, and did away with that concept. If we had had the high-cost multiple in effect when we redid our legislation, we would have required over $2.2 billion in the Ohio fund. Even labor agreed, that is money better used some place else, and we came up with a new system with the $1.4 billion fund and we did not use the high-cost multiple. So, I suggest there is some other way of measuring what is adequate, rather than look at the worst year in the past 30 or 40 years to make that decision.

It is also difficult—and I think this is always a problem Congress has—in coming up with a standard which can meet the needs of all States. Economic conditions vary from State to State, as we all well know. In some States, in fact, we are having a problem right now. The Northeast is having a terrible time. In parts of the Southwest, economic conditions are not so bad.

So, as a consequence, the reason for adequate reserves would be different from State to State. I wish I could tell you how you come up with a system to meet that kind of a measurement, but I think that is very difficult to do. So I guess we are asking if you might want to go back to the drawing board on that.

Finally, the two areas that we oppose: The replacement of the extended benefit program with an employer-financed Federal supplemental compensation program is one that we do oppose. There are many reasons, and I am just going to name a few.

We believe and always have believed that the employer responsibility for their prior employees should stop some place along the line. It seems to have come over the years that the stopping point is 39 weeks. We will accept that. Congress has accepted that. In past years, when Federal supplemental compensation programs have been enacted, the money has come from general revenues, not from employer taxes.

The increased taxes on employers by raising the wage base to an ever-escalating FICA tax base is enormous, even with gradual decreases in the FUTA tax. The 1992 tax increase for an employer with an average maximum wage base of $27,900 is 273 percent, and in 1997, when FUTA is reduced to .03 percent, it is still an 84 percent increase, and this assumes only cost of living increases in FICA.

Senator Moynihan has a bill in the Senate right now increasing the FICA wage base to $84,000. I am sure there was no intention to tie those two together, and so that is the problem. When you get it tied to this, it gets out of control, completely out of control.

I am an employer and I am an officer and part owner of a company that employees 1,100 employees, and I can tell you what happens when we get mandated costs put on us and when we get a tax increase such as this. First, we try to pass it on to the consumer, just like Ron said, but that is not always possible.

In fact, it is quite often not possible, because competition will not let us. If we cannot pass it on to the consumer, then you have to look to reduce expenses, and reducing expenses means travel expenses, it means not hiring new people, it means all the things that go into the costs of your business. It does not mean taking existing employees and lowering their wages. I cannot remember ever doing that, and we have been faced with this problem for some 20 years that I have been with the company that I am talking about.

Of course, the last resort would be to just accept lower profit margins or go out of business.

The use of the total unemployment rate is something we have talked about before, and I am not going to talk about it again. You know how we feel about that.

I guess one other item that concerns me is your eliminating part of an experience-rated tax under the State program. Under the extended benefit program, 50 percent of the extended benefits come out of the State tax, and that has been experience-rated. This stabilizes employment and provides an incentive for employers. You are taking that out when you do this.

The final opposition is obviously in your establishing for the first time Federal disqualification standards under the State programs. I have been in the position over the years of negotiating changes in State laws in a number of States. I have negotiated with labor, and I can tell you that when you decide on a disqualification requirement, what it is going to be, you take in mind what\the weekly benefit amount is, what eligibility requirements are.

Every State law was molded this way, and if you are going to dictate to the States what their disqualification requirements will be, you are going to force them to go back and rejigger exactly what they have done over the past 50 years, since the late 1930s, and I suggest to you that is not a good policy for this Congress to do.

We do not believe that the Congress should dictate terms on which State benefits are paid, and then place the responsibility on the State to raise the taxes to meet such a dictate.

Thank you very much.

[The prepared statement follows:]

STATEMENT OF WARREN BLUE
TO
HOUSE WAYS & MEANS SUBCOMMITTEE
ON HUMAN RESOURCES
Re:H.R.1367
In Behalf of the Employee Benefits &Relations Committee
of
The Council of State Chambers of Commerce

March 21 1991

I am Warren Blue and I appear here today in behalf of the Employee Benefits and Relations Committee of the Council of State Chambers of Commerce. I am Sr. Vice President and General Counsel of R.E. Harrington, Inc., Westerville, Ohio, a nationwide Third Party Administration firm representing many thousands of employers in all States.

I am accompanied by William R. Brown, who retired the first of the year as President of the Council of State Chambers of Commerce and is now a consultant to that group.

Although there are several provisions in H.R. 1367 which we can support, we are strongly opposed to repeal of the Federal-State Extended Benefit Program and replacing it with a Federal Supplemental Compensation program to be financed by increases in the employers' Federal Unemployment Tax. We support the veteran's unemployment benefit changes and the Administrative Financing proposals which are in agreement with suggestions we have been making to this Subcommittee for some time and are badly needed. Also we are in agreement with the concept of increased job search assistance, but do not feel that this should be financed by the claimants' former employers. We are opposed to Federal benefit, eligibility, and disqualification standards in any form regardless of whether or not they are tightening or liberalizing. We do support the creation of an Advisory Council on Unemployment Insurance.

Employer Tax Increases Is Wrong Approach to Recession

Higher Wage Employers Would Have Over 647% Increase - Lower Wage Employers Would Have Entire Payroll Taxed !

As can be seen from Tables I and II, under the provisions of H.R. 1367, the tax cost for the employers to provide jobs paying as much as $55,800 would increase by over 647% in 1992 and even if the job paid only half that amount or $27,900, the increased tax cost of the employer providing that job would jump by over 273%. Even by 1997 when the provisions of H.R. 1367 would ratchet the Federal tax rate down from the present 0.8% to 0.30%, the tax cost of providing a job paying as much as the projected Social Security base of $68,877 would have increased by over 268% from the present tax cost.

Escalating UI Base with Social Security Base Does Not Relate to UI Needs

There is not the same justification for automatically escalating the Federal Unemployment Tax base as there is the Social Security base. The Social Security base is used not only for determining employer and employee taxes, but is also the base for determining benefits. There is no such connection between the Unemployment Tax base and unemployment benefits. To simply increase the Unemployment Tax base in lock-step with the Social Security base seems to assume that increased Social Security benefits resulting from increases in the Cost-of-Living somehow are related to the amount of unemployment which, of course, is absurd. In fact, if there is any correlation it would seem likely to be negative.

Table I
Cost of Providing Jobs Under H.R. 1367
(for employees making at least Social Security base)*

Year	Wage Base	Tax Rate	Cost per	$Increase	%Increase
Present	$7,000.00	0.8%	$56.00	-	-
1992	$55,800.00	0.75%	$418.50	$362.50	647.32%
1993	$58,199.96	0.60%	$349.20	$293.20	523.57%
1994	$60,703.14	0.55%	$333.87	$277.87	496.20%
1995	$63,313.98	0.40%	$253.26	$197.26	352.25%
1996	$66,037.11	0.35%	$231.13	$175.13	312.73%
1997	$68,877.37	0.30%	$206.63	$150.63	268.98%

*The current Social Security base is $53,400. A March 11, 1991 "Summary Outline of Downey Unemployment Insurance Bill", issued by the Ways and Means Committee, projects the 1992 base at $55,800.The projected wage bases from 1993 through 1997 were calculated at the same rate of growth as between 1991 and 1992.

Table II
Cost of Providing Jobs Under H.R. 1367
(At one-half projected wage base levels in Table I)

Year	Wage	Tax Rate	$Cost	$Increase	% Increase
Present	$7,000.00	0.8%	$56.00	-	-
1992	$27,900.00	0.75%	$209.25	$153.25	273.66%
1993	$29,099.98	0.60%	$174.60	$118.60	211.79%
1994	$30,351.57	0.55%	$166.93	$110.93	198.09%
1995	$31,656.99	0.40%	$126.63	$70.63	126.13%
1996	$33,018.56	0.35%	$115.56	$59.57	106.38%
1997	$34,438.69	0.30%	$103.32	$47.32	84.50%

H.R. 1367 attempts to adjust the tax to compensate for using an inappropriate wage base measure, that is the Social Security base which is appropriately tied to Cost-of-Living since it is also used to determine benefit entitlements. On the other hand, the UI base is used to determine UI taxes and has no relation to individual benefits. The Downey Bill attempts to reduce over funding by cutting the tax rate from the present 0.8% each year until it goes down to 0.30% in 1997. It is highly unlikely that this will produce an accurate adjustment, but what is more important is the fact that it creates still greater inequities and penalizes low wage employers since it would tax their entire payroll.

How Employer Looks at Job Costs More Important Than Economic "Theories" of Tax Incidence

The "QUESTIONS AND ANSWERS ON DOWNEY UNEMPLOYMENT INSURANCE REFORM ACT OF 1991", issued on March 11, 1991 state that:

> Employers argue that 100% Federal funding should come from general revenues instead of Federal unemployment taxes. This would be valid if employers bear the burden of the Federal unemployment tax. Most economist agree, however, that the Federal unemployment tax is shifted to workers in the form of lower wages than they would receive if UI did not exist...

To say that "most" economist agree on anything would seem to be highly risky; however, as the above quote recognizes, this is not how employers view it. Certainly, in the short run anyhow, how the employer reacts to the increased tax cost is more important than economic theories of tax incidence. If the employer thinks he can pass on the burden he will attempt to shift as much of it as he can. In most cases, he will first pass as much of it on to the consumer as the market for his product or service permits. Only if he cannot pass it on to the consumer is he likely to attempt to shift the cost to the worker. This may then result in lower wages, in accordance with the "most" economists theory. It may also result in no job at all in some cases.

The conclusion is that the tax increase provisions of H.R. 1367 would penalize low wage employers, increase prices for consumers, lower wages, and discourage job creation. These do not seem to be particularly enlightened social or economic policies, especially at a time the Federal government should be encouraging economic recovery.

H.R. 1367 Tax Provisions Would Also Hurt Small Employers

The contention that the H.R. 1367 tax provisions will be less discriminatory against small employers is based on the assumption that small employers are low wage employers. This, of course, is not necessarily the case. Many small employers pay relatively high wages. What is important in determining wage levels is not size, rather it is the skill level necessary for the employer's type of business, profession or service. The proposed tax increases, perhaps, would make the tax less "discriminatory" against low wage employers, but this would benefit both large and small low wage employers and many large employers are in the low skilled businesses.

In any case, our experience with small employers lead us to believe that once they find out what is proposed for them, they are likely to be even more strongly opposed to the tax provisions of H.R. 1367 than large employers. Also small employers tend to have a more negative attitude toward Unemployment Insurance than large employers who are generally supportive of our Federal-State Unemployment Compensation system. Therefore, small employers are also likely to be strongly opposed to other provisions of the Downey Bill which they will view as "making a bad situation still worse".

Proposed Federal Supplemental Compensation Program

Present Federal Extended Benefit Program Is the Proper Approach

In our February 6, 1991 testimony to this Subcommittee we spelled out the reasons for our support for the present Federal-State Extended Benefit program. Therefore, it will come as no surprise to this Subcommittee that we are strongly opposed to its repeal and the substitution of Federal Supplemental Compensation. Our problems with this proposal is not confined to the employer tax increases that would finance it which are dealt with above. We also have problems with the benefit triggers, duration and unemployment measurement provisions. An additional objection is the elimination of the present Experience Rating concept for financing the State one-half of the Extended Benefit program. Thirty-five States experience rate their fifty percent share of Extended Benefits. H.R. 1367 will remove this merit rating incentive for employers to stabilize employment by replacing it with a flat tax.

Employer Responsibility Should Not Extend Beyond Present 39 Weeks

There has to be a line some place between the employer's responsibility to finance unemployment benefits for his former employees and the responsibility of society in general for unemployment resulting from conditions beyond the control of employers. We feel that the present line is a proper one; that is 26 weeks of regular benefits and 13 weeks of Extended Benefits. If Congress chooses to provide additional benefits, it should recognize the general responsibility and finance them from General Revenue.

"Total" Unemployment Not Proper Measure for Triggering FSC

The use of "total" unemployment as the FSC trigger is inappropriate because Federal Supplement Compensation is meant for workers who have exhausted their regular UI benefits. These are the "insured" not the "total" unemployed. The "total" unemployed is a sampling which includes persons never covered by UI and who have demonstrated no regular attachment to the labor force.

Federal Disqualification Standards

Employers are unalterably opposed to Federal standards specifying any disqualification requirements which must be included in State laws regarding the payment of State unemployment compensation benefits. The disqualification provisions in State laws are hotly contested areas debated by State legislators when the unemployment compensation law is amended. The specific wording is the subject of much give and take between employers and labor and thus affects many other areas of the State unemployment compensation law. Congressional mandated changes will upset the fine tuning which has resulted from these efforts over many years. In addition, the cost implications of the restrictions in H.R. 1367 regarding State disqualification provisions on State funds would be staggering and most certainly require substantial increase in State taxes on employers.

The requirements in Title II of the bill affecting disqualification requirements of State laws are confusing to say the least. The amendments to Section (10) (A) prohibiting cancellation of wage credits or reduction of benefits for any cause with the exception of a discharge for misconduct connected with work, fraud in connection with a claim for compensation, or receipt of disqualifying income would appear to open the flood gates for payment of benefits to employees directly involved in a labor dispute, employees convicted of a crime or embezzlement, and probably most importantly, employees who voluntarily quit their jobs with out good cause. However, upon reading the amendment in the bill to Section (1) (B) which restricts the period of disqualification and the manner of imposing the disqualification for actions other than the three described above, it appears that the bill has recognized that other disqualifications could be imposed for the reasons we have mentioned above. If it is true that the intention of the bill is to allow disqualifications for voluntary quits without good cause, labor disputes, and those convicted of a crime, then we suggest that the language of the bill should clarify this intent because we do not believe it does so at present.

Giving the benefit of the doubt to an interpretation that the intent was not to eliminate disqualifications for voluntary quits and other good disqualifying events under present law, employers still have very significant problem with the cost implications of Section (10) (B). Reducing the disqualification period to ten weeks or less and eliminating the present provision in many State laws which mandate that a requalification for claimants requires a person to obtain another job in covered employment and earn a certain amount of money will be devastating to the trust funds of most States in the country. We do not believe the Federal Government should dictate terms on which State benefits are paid and then place the responsibility on the States for imposing the taxes necessary to pay the benefits.

The required removal from the law in every State in the United States, except Pennsylvania, of availability for work, active search for work, and refusal of work provisions due to a person's physical condition signals the beginning of the end of this very important unemployment compensation benefit payment requirement and erodes the basic concept of the law that benefits should be denied to those who are not actively in the workplace.

Federal Job Search Assistance

Support the Concept, But Not Employer Financing

We are supportive of the concept of providing an intensive job search program after 10 weeks of regular State benefits. However, we do not believe that the former employers should be expected to pay for this program through both the Federal Unemployment Tax and the State tax already paid by the employer. Also it would seem that limiting this program to claimants with at least three years of experience with their last employer might eliminate many of the claimants that are most in need of the program.

Strongly Support Proposed Administrative Financing Reform

The proposed authorization of an appropriated entitlement grant for administering unemployment insurance is a reform that is badly needed. Employers are incensed that they have been paying their Federal Unemployment Taxes that are supposed to be used to pay all appropriate State administrative costs and then are being taxed again by many States to pay these same administrative costs because Congress has not provided adequate appropriations.

Tiered Interest Rates

Although we certainly are in favor of States maintaining "adequate" reserves we have some doubts about the proposal for a tiered interest rate structure to reward States for maintaining adequate balances. It might produce actions by the States that the Subcommittee would not favor - reserves can be built up by tightening up on payment of benefits! Also the ability of a State to build up its reserve depends to a considerable extent on the make-up of its economy. Is it fair to penalize a State because its economic make-up makes building up a reserve difficult? Or reward a State because it is fortunate in having a mix of businesses that are relatively immune from economic downturns?

Conclusion

We urge the Subcommittee to drop the controversial provisions of H.R. 1367 which would repeal the Federal-State Extended Benefit Program and substitute Federal Supplemental Compensation financed by increases in the employers' Federal Unemployment Tax. As a matter of principle we are opposed to any benefit standards. We hope that the Subcommittee will approve the non-controversial provisions, such as those on administrative financing, where there is considerable agreement between labor, business and the States.

Acting Chairman DOWNEY. Thank you, Mr. Blue.

Mr. Brown.

Mr. BROWN. I do not have anything to add.

Acting Chairman DOWNEY. Thank you.

Mr. Shaw.

Mr. SHAW. One question I would like to direct to Mr. Cunningham. I would like you to comment on this statement: The assertion that unemployment insurance taxes are shifted to workers in the form of lower wages ignores the fact that unemployment insurance, quite apart from hard cash payment it may deliver, is intended to be a benefit, and benefits are as much a part of the compensation as wages are.

Mr. CUNNINGHAM. I think what we were trying to say there is that, as you negotiate wages, the taxes are taken out——

Mr. SHAW. Now, I am reading from the statement of the United States Chamber of Commerce.

Mr. CUNNINGHAM. Oh, that is why I did not understand it. [Laughter.]

Conceptually, for a worker, when you collectively bargain, all costs are basically on the table, so health insurance is on the table, insurance is on the table, your Social Security taxes are on the table, and all of the rest. Even though the employer pays unemployment compensation taxes, it is paid for on behalf of the workers, and you have to give up something at the bargaining table, to put that in place.

That is why we believe that it is an entitlement for the worker, even though the tax is paid by the employer, and—I am sorry this is my worst time of day, it is absolutely my worst——

Mr. SHAW. I understand. It was well written, but confusing.

Mr. CUNNINGHAM. But on one hand, it is a tax paid to the Federal Government, but on the other form it is a benefit that is being paid on behalf of the worker, which has to be taken into consideration when you get into collective bargaining, so this is a benefit that is earned by the worker, that is paid by the employer, that is taken into consideration as to the cost of labor.

This is one of the reasons why—you know, we have got to improve the package. I can see that maybe there are some places where we can quite agree with regard to provisions of this bill, and we do not mean to trash this bill entirely. We are very concerned on our side with the amount of taxes involved, and these are benefits and this is part of the wage package.

Mr. Blue has to be concerned about this when he is working up his cost of labor, but if you were the person negotiating, you also have to be concerned about it, because it, in effect, is coming out of the worker's pocket, as well.

Mr. SHAW. I guess labor unions, unfortunately, like members of Congress, have constituents that are employed or unemployed. I think we always tend to look at the most vulnerable in this situation. From our perspective in this situation, the unemployed worker is the most vulnerable. If he is not eligible for benefits, then we basically find that is a major problem.

Mr. CUNNINGHAM. So the idea that an employer's tax rate will go up under this proposal and perhaps workers will suffer from some diminution of wages in other areas is a thing that we would take on, because we do believe that our brothers and sisters who are not working deserve to basically get benefits and, therefore, we would hope that the eligibility for these benefits would increase.

Mr. **Shaw**. Thank you.

Acting Chairman **Downey**. Mrs. Johnson.

Mrs. **Johnson**. No questions.

Acting Chairman **Downey**. Thank you, Mrs. Johnson.

Let me just say I appreciate the testimony of the panelists, and we are going to review it.

Mr. Blue, I must admit that you fooled me with coming out with two of the things that you were in favor of, and this may be a first. [Laughter.]

All of the suggestions that were made are going to be seriously considered. Thank you very much.

Mr. Coyne, did you want to introduce some members of the——

Mr. **Coyne**. I did have a question for Mr. Adler.

Acting Chairman **Downey**. I am sorry. Mr. Coyne.

Mr. **Coyne**. Mr. Adler, I am struck by your contention that this ought not to be a Federal program when, in fact, as based on the testimony of Mr. Blue there, the nature of our national economy is such that we find that work slowdowns are taking place in one part of the country and other areas of the country are doing very well, economically, and it would seem to me on that basis, with the shifting of the job bases from some areas of the country to others, that it would cry out for a national solution to the problem.

In your testimony, you indicated that, on a broader scale, the chamber opposes attempts to federalize the UI system. It seems to me that is quite natural, the way it ought to go.

Mr. **Adler**. Let me comment. When we talk about a Federal program, we have to remember that this is a Federal-State program, there is a joint partnership. The taxes at the Federal level are a flat-rated tax, they are paid by all employers on a taxable wage base. They are not experience rated.

At the State level, we have experience-rated taxes and employers are rewarded for their ability to stabilize their employment. Employers are rewarded for the way they control their employment patterns. States recognize the various types of employment, the economic base that they have, the nature of the workforce. For that reason, under the current 26 weeks of benefits, we feel that the current Federal-State partnership is the ideal and resists attempts to federalize it at that point.

Once you go beyond 26 weeks, once you go on to long-term employment, where it can no longer be identified with a single employer, where there are perhaps some national issues that need to be addressed, then perhaps a more federalized approach needs to be addressed.

But when you talk about at the beginning stages of unemployment, addressing things like benefit standards or qualifications or disqualifications, that is an intervention by the Federal Government that we feel is not justified.

Mr. **Coyne**. Thank you.

Acting Chairman **Downey**. Mr. Coyne, did you want to introduce any of the members of the panel?

Mr. **Coyne**. Let me call the next panel of the Mon Valley Unemployed Committee, Paul Lodico, coordinator, is accompanied by Edward Garry, who is president of the Mineworkers 2244; Philadelphia Unemployment Project, Edward Matthews, member and unemployed worker; New York Unemployed Committee, Keith Brooks, coordinator, who is accompanied by Nelson Valentin, who is a member of the Steering Committee and an unemployed worker.

Acting Chairman **Downey**. Mr. Lodico, if you would begin, please.

STATEMENT OF PAUL LODICO, COORDINATOR, MON VALLEY UNEMPLOYED COMMITTEE

Mr. **Lodico**. Hello. My name is Paul Lodico, and I am a coordinator of the Mon Valley Unemployed Committee.

The Mon Valley is in southwestern Pennsylvania, it is that region starting where the Monongahela River flows together with the Allegheny to form the Ohio up through Brownsville. It was long the center of the region's steelmaking capacity. In fact, Pittsburgh was once described as "hell with the lid off," because of the smoke, the pollution and the heat.

Well, in the 1980s, the job loss in our region was so great, that there is no more smoke, there is not much heat, and not much pollution. We lost over 100,000 jobs in the 1980s, and what saved many families was the unemployment system, especially the extended benefits system and the Federal supplemental benefits that we got. We know we got Federal supplemental benefits in the summer of 1982, again in the fall of 1982, in the spring of 1983, and in the fall of 1983. Four times we petitioned, four times we came to Congress, four times we marched for Federal extensions of unemployment benefits to keep the cash coming that we needed to preserve our lives and our families.

Our region is still reeling. Many of the former plants are gone. The Southside LTV, Monesson Works of Wheeling Pittsburg Steel, Duquesne, and National Works of U.S. Steel are gone. The remaining ones are greatly reduced.

Despite their best efforts, many dislocated workers are still unemployed or have not fully remade their lives, and now we are facing another recession.

The McKeesport unemployment office reported an increase of 58 percent in continuing claims from March of 1990 to March of 1991; and in the last 4 months it was even more dramatic, it went up 125 percent, which means we are going to see a surge of folks running entirely out of benefits in our region in a few months, because Pennsylvania is not one of those States that will have extended benefits.

Thus, we are strongly in favor in our region of a reform of the UC laws, especially as embodied in H.R. 1367.

I would like to comment briefly on two other parts of the proposed bill. One is the durational disqualification. In our day-to-day work, the Mon Valley Unemployed Committee answers calls from workers who have problems or questions with unemployment compensation, and we help people with their administrative appeals. I would like to talk about two cases. Although Pennsylvania is often considered to be a very liberal State with qualifications and benefits, it does not really seem that way to us.

First of all is the case we will call the case of the Ratman. He was a steelworker who, while he was unemployed and drawing benefits, was out searching for work. He found a job that paid even less than his unemployment benefits, but he wanted to have a future for his family and the company hinted that with this job he would be management potential. He was starting on the bottom, but there was opportunity, and so he took the job.

Indeed, he was starting at the bottom; he was responsible for cooking and preparing the food and cleaning the cages of tens of thousands of rats and mice. Not long after starting work, he lost his appetite, he lost it at home, he lost it at work, and then he began vomiting. After talking with his wife and his priest, he quit work. He went back to the unemployment office to file for benefits and was denied.

With the help of the Mon Valley Unemployed Committee, he appealed, had a referee's hearing and lost the referee's hearing. Clearly, he was a person who wanted to work. He quit only because he had to. This person should not be penalized, nor should others like him.

Case number two involves Regis. Regis was a printer who was let go from work, because of unsatisfactory job performance. As an honest person, when he went to the unemployment office he described his situation and told them that he was not performing his work as well as he used to. He told them that he was trying his best, there were problems with the machine and it was old and there were problems with his health. He had lost an eye and he had other health problems, and one of the reasons he was let go was an inability to work overtime and he had a slip from the doctor saying he should not work over.

The unemployment office ruled against him and he was denied benefits. After 15 years with the company, Regis was both out of a job and out of unemployment benefits. In that case, because of the Mon Valley Unemployed Committee, he was able to get benefits, but we think that workers like him and others should not be disqualified because of unduly restrictive regulations.

Finally, and very briefly, we think the job search assistance part of the bill is very positive. We would like to add several quick things to it. One, it should be offered, but not required. Two, it should be offered to more unemployed workers. You should not have to work at a firm for 3 years, to be able to take part in that program. Three, it should be offered sooner. Our experience with the rapid response grant we got from the State found that workers should be taking advantage of this sort of program immediately after they are warned of impending layoffs, so that they can consider their options.

Four, it should have a section devoted to retraining options for workers, including information on potential funding sources, because that is a very grave concern for workers who are considering retraining.

Five, at this very early stage of unemployment, what workers need is not 2 weeks, they often need a week-long, perhaps even shorter, serious job search training program. If it is going to be required, it should only be required at a later stage for folks who, after this initial job search, still have difficulty. If 6 months later they have not been integrated into the work force, then perhaps a followup or required session would be very helpful.

Six, résumés should not be one of the things that is an option. It should be required. It should be one of the firm physical products people come out of it with.

Once again, we think this bill is a very positive bill and we support it very strongly. We are reminded of the remarks of Chairman Rostenkowski reported in the Washington Post this Sunday, when he said about 40 percent of the workers get benefits, the rest get the shaft. That certainly is the truth the way we see it, and this bill would change that, would take action toward removing some of the things that prevent workers from getting the unemployment benefits they need and deserve.

Thank you.

[The prepared statement follows:]

Statement by Paul Lodico of the Mon Valley Unemployed Committee before the Ways and Means Sub Committee on Human Resources

3/21/1991

My name is Paul Lodico, I am a coordinator of the Mon Valley Unemployed Committee. Starting from the point in Pittsburgh where the Monongahela River joins with the Allegheny to form the Ohio River, the Mon Valley has been the center of iron and steel making in this region, long world renowned for the production of steel. Here Andrew Carnegie got his start. Here the pollution was such that an author once called Pittsburgh, "Hell with the lid off"

The job loss in the 1980's was so great that for many life was hellish, not because of the pollution but because of the unemployment. The unemployment insurance system , especially the Extended Benfits and Federal Supplemental Benefits saved many families from utter catastorphe.

One of the major reasons that Allegheny County lost 7.8% of its population was the loss of jobs in the Mon Valley. All of the steel jobs now left in the valley would have fit in one part of the now closed US Steel Homestead Works. Also gone are the Duquesne and National works, LTV Southside, Wheeling Pitt Monesson and in the Turtle Creek area gone are the Westinghouse East Pittsburgh Works (which in the early 80's employed 4,000) and the Union Switch and Signal. The Westinghouse Airbrake lost over 80% of it's 2400 jobs.

Despite their best efforts to remake their lives, for too many dislocated workers, the last recession never really ended. Now at the bottom of seniority lists, most others are now being laid-off. The Mc Keesport unemployment office reported an increase of 58% in continuing claims from the first week in March 1990 to the first week in March 1991. From the first week in November to the first week in March they went up by 125 %.

Thus we will all too soon we will have a surge of people who have exhausted their claims. Once again additional weeks of unemployment benefits will be needed to avoid utter catastrophe for many families and communities.

Thus we are strongly in favor of the improvements imbedded in HR1367. These changes will diminish the hurt that would otherwise be caused by the recession.

I would like to comment on two other parts of the proposed legislation; the Job search workshop requirement and the durational disqualification.

Much of the day to day work of the Mon Valley Unemployed Committee consists of providing unemployed workers with information about the Unemployment Insurance system and assisting them with problems including administrative appeals. Pennsylvania has in some circles a reputation for being liberal with qualifications and therefore with benefits. It doesn't seem that way at all from our experience and while we find the legislation's durational disqualification a marked improvement, we believe it doesn't go far enough to meet the real needs of the many working men and women of America who find themselves both without work and without benefits because of unfortunate circumstances and unduly restrictive laws. Let me share but two of many instances with you.

Case #1 we call the Ratman. It involves a former steelworker who while still drawing unemployment benefits found a job. Even though his gross pay would be less than his unemployment benefits, he took the job both because he wanted to work and because at the time of his hiring it was hinted too him that he had potential to go places with the growing medical laboratory. His new job at the lab was indeed at the bottom. He was responsible for cooking the food for and cleaning the cages of tens of thousands of rats and mice.

Not long after starting work he lost his appetite both at work and at home. Then he began to vomit. The job was affecting both his health and family life. After talking with his wife and parish priest, he quit. Returning to the unemployment office he found that he was no longer entitled to unemployment benefits. He appealed the determination and with the help of an advocate from the Mon Valley Unemployed Committee presented his case before a

Referee. The Referee also denied him benefits.

Clearly here was a person who wanted work and only quit because he had to quit. He should not have been penalized. Nor should others like him in the future.

Case #2 involves Regis, a printer who was let go because of unsatisfactory performance on the job and his refusal at a point in time to work more than eight hours a day. Regis did not deny to the unemployment office that his performance was declining but he explained that he was trying as hard as he could and that the problem was due in part to being assigned to a particularly troublesome old machine that had not been properly maintained.

Besides which he had lost an eye and was having other health problems and in regards to the principle issue of overtime work he had a note from his doctor saying he should not work more than eight hours a day.

The unemployment office ruled against him and he was denied benefits. After fifteen years with the company, Regis was on the street without a job and without unemployment benefits.

Only because of the assistance of the Mon Valley Unemployed Committee at an appeals hearing was Regis granted benefits.

Far too many people don't know about our Committee or don't know about or qualify for Legal Services assistance. These people lose because they don't know how to legally argue their cases, but they should not be denied in the first place, and when they are, their disqualification should not be forever.

Based on our ten years of experience working with dislocated workers, we offer the following quick observations on the requirement to attend a job search assistance workshop.

1) It should be offered not required.

2) It should be offered to more, eg. eliminating the three year requirement

3) It should be offered sooner. Workers who are WARNed should have this option explained at that time

4) It should include a section on the retraining option including information on potential funding sources.

5) At this early stage a one week session should be sufficient with another session available perhaps even required for those who have not found employment in six months

6) Production of a resume should be required

Acting Chairman DOWNEY. Thank you, Mr. Lodico.

Mr. LODICO. I would also like to thank Congressman Coyne from our area who is here to listen to our testimony.

Acting Chairman DOWNEY. Well thank you, Mr. Lodico.

Mr. Garry.

STATEMENT OF EDWARD A. GARRY, PRESIDENT, MINEWORKERS LOCAL 2244, MON VALLEY UNEMPLOYED COMMITTEE

Mr. GARRY. Good afternoon, Mr. Chairman and members of the subcommittee. My name is Ed Garry and I am a dislocated worker. I am a coal miner and I worked at the Mathies Coal Co. in Finleyville, PA. I am 40 years old and have worked at Mathies Mine for 15 years. I have a wife Michelle and have three children, Eddie, Matthew, and Megan.

On October 17, 1990, the mine ignited and a fire quickly spread. Attempts were made to extinguish the fire but were unsuccessful. Within 5 days after the mine fire developed, the mine was sealed. So therefore within a week's time, I went from being a productive worker to a displaced worker with the prospect of ever getting called back to Mathies Mine a very slim prospect indeed.

I do not think that I could ever express what goes through a person's mind when the world collapses in front of them. The confusion and the anguish of dealing with something like this is awesome. Questions come sifting through the grief and confusion, like how are we going to pay the mortgage and how are we going to take care of the car payment and how are we going to clothe our children and put food on our table?

Unemployment insurance has helped tremendously to ease our financial burden. With a great deal of belt tightening, we have been able to meet our financial responsibilities. But our 6 months of benefits will soon be up and there is no job in sight.

I cannot find employment anywhere in the Mon Valley area. I have sent countless résumés out and in most cases do not get any response at all. I have conducted job searches and used networking techniques and I am continuing to employ these techniques. I am presently very worried about the future and do not know where to turn.

On a broader outlook, Mathies Mine employed 345 hourly employees. Only about 30 of these people found bona fide employment. Many people are retraining using the services of the Washington Greene County JTPA and the Westmoreland Fayette County Private Industry Council. Also many of our displaced miners are employing the United Mine Workers Bituminous Coal Operators Training and Education Fund to pursue new careers.

There are education and training benefits available to us, but when the unemployment benefits expire there will be no funds available for us to live on and to meet our expenses. United Mine Workers of America District Five officers and staff have been a tremendous help to us by providing us with office space and support, but it all comes down to jobs.

There really do not seem to be any jobs available in the Pittsburgh area and especially in the Mon Valley where I have read in the local newspaper that a study was completed on unemployment and it was concluded that around 21 percent unemployment was found in the Mon Valley work force.

Some people may think this is an inflated figure. But if they were in my position where I am out looking for a job, they might see some truth to these figures. Extremely high unemployment figures have allowed unscrupulous employers to take advantage of this and keep wages at a less than livable allowance.

The labor movement and the United Mineworkers of America in this specific instance have fought decades to make their members an integral part of middle class America. Because of the surplus labor pool in western Pennsylvania, it is not unusual to accept employment at minimum wage. I do not have the answer, nor does anyone else, of how a family can survive on that level of income.

We believe it imperative that we have an extension in our unemployment benefits. Perhaps in the next few months the economy will pick up and open up an opportunity for some of us to get employment. Now this work force is struggling to keep their homes, their automobiles, and their families together. Bankruptcies and foreclosures seem to be facing us at the present time with no solution to any of these problems. So, here I am before you imploring that you consider helping us in extending unemployment benefits for another 26 weeks. I do not know of a soul who wants to be unemployed.

Thank you.

Acting Chairman DOWNEY. Thank you, Mr. Garry.

Mr. Matthews.

STATEMENT OF EDWARD MATTHEWS, MEMBER AND UNEMPLOYED WORKER, PHILADELPHIA UNEMPLOYMENT PROJECT

Mr. MATTHEWS. Chairman Downey and members of the committee, my name is Edward Matthews. I represent the Philadelphia Unemployment Project, an organization of unemployed and working people which has been involved in issues concerning unemployment compensation and extended benefits since the recession of 1975.

I have been unemployed since September of 1990, when my employer closed our warehousing division. There were 25 people laid off with an average of 15 years service to the company. I myself have worked for over 23 of my 41 years. This is the first time that I ever collected unemployment in my life. I have a wife and three children, two grown and one in high school. I receive $280 per week in unemployment benefits. My 26 weeks of benefits will end in 2 weeks. Right now I have no prospect of a job due to the economic conditions in my area, which are no different from the rest of the country.

I have been searching furiously for a job since the first week that I was laid off. That means that I have had 24 weeks of rejection so far. I have filled out well over 50 applications and have not received a single reply. I have training and experience in the optical field and warehousing. I still cannot find a job.

I went to one warehousing job in the suburbs where Boise Cascade was offering five positions. I got there early and over 30 people were in line. When I left there were over 100 still waiting. I later found out that 2,000 people had applied for those five jobs. Just last week, Breyers Ice Cream held a job fair where they advertised 20 jobs in their southwest Philadelphia plant. Well over 2,000 people showed up. They ran out of applications 3 hours before they were supposed to stop taking them.

I have applied for dozens of jobs in warehousing and optical and even banking. I have not come close to a job offer yet. I am joined in the army of the unemployed wherever I go to apply for work. This Monday over 200 people in Philadelphia turned out in a rainstorm for a meeting sponsored by the Philadelphia Unemployment Project with Representative Robert Borski asking for his support for H.R. 1367.

This shows how desperate people are getting for an extension due to the lack of available work. I would rather be working than down here testifying before this committee. So would my brothers and sisters in this room and throughout the country. Right now there are no jobs. That is why we are here to call for an immediate extension of unemployment compensation.

Millions of workers from all over the country cannot wait for a long, drawn out process. My family has only 2 more weeks to go and I am not alone in this predicament. In no other recession has the Government turned its back on the unemployed and refused to extend benefits. We are not the cause of this recession; we are the victims. We want to work, but there are no jobs.

In the 1975 recession, Larry Kenetski who worked with me and was originally going to testify was also laid off. Then benefits lasted 65 weeks. On the 64th week he found a job, the warehousing job he lost in September. Had there been no extension of benefits at that time, he would have been in dire straits. The additional payments allowed him time to continue to feed his family and maintain his pride while he searched for employment.

An extension of benefits at this time would tide us over until the economy is on the upswing. If this does not become law, I believe you will see a desperate working class waiting in soup lines. We are told that the unemployment rate is currently 6.5 percent nationwide and rising. 1.6 million have been laid off since June. Hundreds of thousands have already exhausted their benefits. We consider this an emergency.

So in a way does Budget Director Richard Darman, who recently designated $150 million as emergency money to aid in the administration of the unemployment compensation system.

According to the Associated Press, Darman attributes the administration's change of mind to worsened economic forecasts. How can the administration say that there is an emergency for the unemployed office workers and not for those of us who receive unemployment benefits and those benefits are running out rapidly?

If President Bush cared as much about unemployed American workers as he does for the people of Kuwait, he would declare an emergency for us also. We hope that he will do this so that the 8 billion extended benefits trust fund can be tapped to fund the greatly needed extension of benefits.

We support H.R. 1367, the Downey bill. We are especially happy that it includes a reach back provision to cover those that have exhausted benefits in January and will exhaust their checks until this bill can become law. We do recommend that the reach back period go back until the beginning of the recession in the fall. Many of our friends and neighbors ran out before January 1. Many still need your help.

We feel that the first tier of the extended benefits in H.R. 1367 should be 13 weeks like the current extended benefits program rather than 9 weeks.

However the overall concept of linking extended benefits to State total unemployment rates is good. We should not need a new law passed every recession to protect unemployed workers. The 52-week maximum is adequate, although the 65-week program of the 1970s was more just. We support the section dealing with improved eligibility standards for State unemployment compensation systems. However we feel that the current unemployment crisis calls for an immediate extension of benefits and we are concerned that this longer term reform may prevent them from occurring. If you can pass the whole bill quickly, then do so. But we need this extension now. Do not let it bog down in the mass overhaul of State unemployment compensation systems. The job search provisions may help some people but if there is no work it will not be able to manufacture us jobs. There are other provisions that I will not comment on, but I will state that overall we enthusiastically support the Downey bill and urge its rapid passage. For many of us it is our only hope.

Ladies and gentlemen, we ask you to throw us a lifeline before we drown in poverty. Extend the benefits to tide us over until work is available again. We urge you to do the right thing. Support American workers and pass H.R. 1367.

Thank you.

[An additional statement from the Philadelphia Unemployment Project follows:]

TESTIMONY OF

LARRY KENETSKI OF THE PHILADELPHIA UNEMPLOYMENT PROJECT

Chairman Downey and members of the Committee,

My name is Larry Kenetski. I represent the Philadelphia Unemployment Project, an organization of unemployed and working people, which has been involved in issues concerning Unemployment Compensation and extended benefits since the recession of 1975.

I have been unemployed since September, 1990 when my employer closed our warehousing division. Twenty-five people were laid off with an average of fifteen years service to the company. I, myself have worked for over 30 of my 48 years. I have a wife and three children, two grown and one in college. I receive $274 per week in unemployment benefits. I put $40.00 a week aside toward federal income tax. I pay $380 per month for hospitalization, which used to be provided by my employer. My 26 weeks of benefits will end in two weeks. Right now I have no prospect of a job due to the economic conditions in my area, which are no different than the rest of the country.

I have been searching feverishly for a job since the first week I was laid off. That means that I have had 24 weeks of rejection so far. I have filled out well over 50 applications and have had only one reply so far and that was a rejection letter. I have training and experience in baking, advertising, sales and warehousing. I still cannot find a job. I went to one warehousing job in the suburbs where Boise Cascade was offering five positions. I got there early and over 30 people were in line. When I left there were over 200 people waiting. I later found out that 2,000 people had applied for these five jobs. Just last week Bryer's Ice Cream advertised twenty jobs in their southwest Philadelphia plant. Well over 2,000 people showed up. They ran out of applications three hours before they were supposed to stop taking them.

Last week I applied at a factory in my neighborhood for a utilityman job - really a janitor job. I had to fill out a three page application to get a janitor job. I have been to at least three places every week and sometimes many more looking for work.

I am joined by an army of the unemployed wherever I go to apply for work. This Monday, over 200 people in Philadelphia turned out in a rain storm for a meeting sponsored by the Philadelphia Unemployment Project with Representative Robert Borski asking for his support for HR 1367. This shows how desperate people are getting for an extension due to the lack of available work.

I'd rather be working than down here testifying before this committee. So would my brothers and sisters in this room and throughout the country. But right now there are no jobs!

That is why we are here to call for an immediate extension of Unemployment Compensation. Millions of workers from all over the country can't wait for a long, drawn out process. My family has only two more weeks to go and I am not alone in this predicament.

In no other recession has the government turned its back on the unemployed and refused to extend benefits. We are not the cause of this recession, we are the victims. We want to work but there are no jobs.

In the 1975 recession I was also laid off. Then, benefits lasted 65 weeks. On the 64th week, I found a job, the warehouse job I lost in September. If there had been no extension of benefits at that time, I would have been in dire straights. The additional payments allowed me to continue to feed my family and maintain my pride while I searched for employment. An extension of benefits at this time would tide us over until the economy is on the upswing. If this does not become law, I believe you will see a desperate working class waiting in soup lines.

We are told that the unemployment rate is currently 6.5% nationwide and rising. 1.6 million have been laid off since June. Hundreds of thousands have already exhausted their benefits. We consider this an emergency.

So, in a way, does Budget Director Richard Darman who recently designated $150 million as "emergency" money to aid in the administration of the Unemployment Compensation system. According to the Associated Press, Darman attributed the administration's change of mind to worsened economic forecasts. How can the administration say that there is an emergency for the unemployment office workers and not for those of us who receive unemployment benefits and whose benefits are running out rapidly?

If President Bush cared as much about unemployed American workers as he does for the people of Kuwait he would declare an emergency for us also. We hope he will do this, so that the $8 billion extended benefits trust fund can be tapped to fund a greatly needed extension of benefits.

We support HR 1367, the Downey bill. We are especially happy that it includes a reach back provision to cover those who have exhausted benefits since January and will exhaust their checks until this bill can become law. We do recommend that the reach back period go back until the beginning of the recession in the fall. Many of our friends and neighbors ran out before January 1st. Many still need your help.

We feel that the first tier of extended benefits in HR 1367 should be thirteen weeks like the current Extended Benefits program rather than 9 weeks. However, the overall concept of linking Extended Benefits to state total unemployment rates is good. We should not need a new law passed every recession to protect unemployed workers. The 52 week maximum is adequate although the 65 week program of the 1970's was more just.

We support the section dealing with improved eligibility standards for state unemployment compensation systems. However, we feel that the current unemployment crisis calls for an immediate extension of benefits and we are concerned that this longer term reform may prevent that from occurring. If you can pass the whole bill quickly, then do so, but we need this extension now. Don't let it bog down in a mass overhaul of state Unemployment Compensation systems.

The job search provisions may help some people, but if there is no work it won't be able to manufacture us jobs. There are other provisions that I will not comment on, but I will state that overall, we enthusiastically support the Downey bill and urge its rapid passage. For many of us it is our only hope.

Ladies and gentlemen, we ask you to throw us a lifeline before we drown in poverty. Extend the benefits to tide us over until work is available again. We urge you to do the right thing - sopport American workers and pass HR 1367.

Thank you.

Acting Chairman DOWNEY. Thank you, Mr. Matthews.
Mr. Valentin.

STATEMENT OF NELSON VALENTIN, MEMBER, STEERING COMMITTEE, NEW YORK UNEMPLOYED COMMITTEE AND UNEMPLOYED WORKER

Mr. VALENTIN. Good afternoon, gentlemen, members of the committee, Mr. Chairman. My name is Nelson Valentin. I am a steering committee member of the New York Unemployed Committee in favor of bill H.R. 1367.

I have been out of work since October 6, 1990. I live in Brooklyn, N.Y. I was laid off after working 8 years in the retail shoe industry. I am now down to my last employment check. I have a wife and three daughters. As meager as my unemployment check has been, it has at least allowed us to survive during this period. I do not know how we are going to pay our bills unless we get some help. I would rather be working than testifying before you today, but the hard fact that this Government refuses to admit is that there is no work. And more people are losing their jobs every day.

When jobs are available, dozens and even hundreds of people apply. I know; I am out there looking. I am here then to urge you on behalf of over 200,000 people who exhaust all their unemployment benefits every month to move quickly in passing this bill to extend unemployment benefits out of this subcommittee and to the full House Ways and Means Committee.

I have had unemployment insurance taxes paid on my salary all my working career. And now when I need that insurance I am told that there is only available 26 weeks of benefits to me. I am about to use up my 26 weeks. The Bush administration that things are not bad enough to justify giving more weeks of benefits. I have a question to ask of President Bush. How can you justify denying us our benefits when you allocate billions for the savings and loan industry and billions for war in the Gulf? How can you deny us this protection when that part of the unemployment insurance tax intended for extending unemployment benefits has accumulated over $8 billion?

Mr. Bush, the money is there. Why can't it be used? As a member of the steering committee of the New York Unemployment Committee, I urge this body to act quickly. I have three facts that are not written in this statement. And this is funny. I came to this country in 1981 after my country, Puerto Rico, the island of Puerto Rico, had suffered the same consequences of unemployment. It was hard for me to seek for a job and find it, so I came to this country. And 10 years later, it happens to be the same story.

Actually I have been looking for jobs and there is nothing available at all. They gave me a sheet to fill out to give them information about my looking for a job career and I filled it out. In the second month, I started my unemployment benefits and the only job available right now does not have anything to do with my background.

I have 63 credits approved in business administration and have been in retail business for over 10 years and the only jobs available are away from my background and the payment on them is even lower than my regular salary—was about $450. Now if they offer me a job of $200 or less, I have to take it because pretty soon I am going to have no income available. And that is not even good for the people that are already in the background because I am taking one of them out because I am taking an offer of less money.

Please, gentlemen, I urge this body again to please act in favor of the bill 1367.

Thank you.

Acting Chairman DOWNEY. I want to thank the members of the panel for testifying. Did you want to say something, Mr. Brooks?

Mr. BROOKS. Yes.

Acting Chairman DOWNEY. Please do so at this time.

STATEMENT OF KEITH BROOKS, COORDINATOR, NEW YORK UNEMPLOYED COMMITTEE

Mr. BROOKS. My name is Keith Brooks and along with Manny Ness I am the coordinator of the New York Unemployed Committee. We are also both on the staff of local 802 of the American Federation of Musicians. And our position is that we think the bill is a step in the right direction toward rebuilding the unemployment insurance system that has been greatly undermined over the decade.

By now the statistics are familiar or should be; 65 weeks of unemployment benefits available in 1977 with over 70 percent of the unemployed collecting them; today only 26 weeks of benefits with little more than one-third collecting benefits.

Last year that was considered a nonrecessionary year, 1990, 2.3 million people used up all their benefits without finding a job, left to fend for themselves without a source of income. It is clear that the only Government program designed to provide a cushion for the jobless is failing miserably, and that is because the Government and George Bush is failing miserably in its responsibility to the American people.

And now that the cheering for the Gulf war is dying down, there is the harsh reality to be faced at home and the question is who is going to rescue the 8 million people out of work, the 6 millon people forced to work part-time because they cannot get full-time work or the million workers considered so discouraged they are not part of the work force?

We think it is time to declare war on unemployment, on evictions and on mortgage foreclosures, on utility turnoffs and on lack of medical care. And we ask what does President Bush propose that the unemployment should do and does he really believe that we are in a recession? It took him a lot longer than just about everybody else in the country to recognize that we are in a recession and it seems that they are eager to declare it over before it has really deepened to the extent that it is going to.

And we would ask if the administration really believes that there are jobs available? We think there are jobs available. Every time one comes up, dozens and hundreds of people apply for them. The point is there are not enough jobs available and more jobs are being lost than are being created.

In regard to the specific provisions of the bill, we support the substitution of the total unemployment rate for the insured unemployment rate for reasons that have been detailed here before. It is no longer, if ever was, a reliable indicator of long-term unemployment. However we think that it should be pointed out that the question of the total unemployment rate itself has some questions attached to it, which is that the Department of Labor itself counts another million people who are discouraged workers. Those are not my numbers; those are the Department of Labor's numbers. And they choose not to include that million people in the 6.5 percent unemployment rate. So all you have to do is put in that 1 million people who are part of the Government's own statistics into the unemployment rate. They say that they are unemployed. And you have now an unemployment rate of 7.5 percent.

And so the total unemployment rate is itself, on its face, not a valid account of the unemployed. There is also the issue that the Government uses—a lot of people do not realize—the Government uses about seven different unemployment rates. And the one that people are most familiar with is the 6.5 percent. That is what the press reports on all the time.

There is another unemployment rate called the U7 unemployment rate. You can find it in every month's unemployment report. And that does include a measure of discouraged workers and it does include, I think, half of the involuntary part-time workers. And if I am not mistaken the latest U7 unemployment rate is, I think, close to 9 percent.

Now again, these are not my figures. These are not the AFL-CIO's figures. These are the Government's Department of Labor. They give you an alternative that tries to measure a little bit more broadly unemployment. So the idea of switching to the total unemployment rate—we would like to see some changes in the total unemployment rate in terms of what that includes.

We support the other provisions of the bill for increasing the taxable wage base, the limiting of State restrictions on eligibility and reforms for the funding of the centers. We believe that the number of weeks that it would add on is too little. And while we recognize current realities, we want to see the 65 weeks of benefits restored.

It has to be pointed out that on unemployment insurance as with health care, the United States ranks towards the bottom in terms of other western industrialized countries in what it provides.

We have some questions. The bill does say that the current permanent EB program should be abolished, but it does not say what would be done with the $8 billion that is in the account, which is a question that we just have to keep on going back to and we were glad to see that it was on the interview on ABC News the other night, your comment.

I mean, it is just astounding that there is $8 billion in this account and there are hundreds of thousands of people running out of benefits and it cannot be used.

Finally there is another point which is that this is ultimately going to be a political question and a question of a political fight and priorities, and the question is we know what the Bush administration's position is—and I think that was clearly stated today.

It was clearly—Bush administration to the unemployed—drop dead. They did not have a single constructive point to be made. All they want to keep on saying is that there is no real problem and that things are working fine. And I guess they are if you are in the Bush administration.

But aside from the Bush administration, we think there are some sharp questions that need to be posed and should be posed. This cannot be a free ride for other people who we expect to see out there visibly and publicly and we have to say—we want to know where does the chairman of the House Ways and Means Committee stand on this? I understand there was a Washington Post article. I would take that to be a favorable comment on this bill.

But there are also a number of people—we have not seen any activity in the Senate in the last couple of years. We want to know where Senator Moynihan stands, Bentsen and others who we think should have been here or should be here at these hearings, who should be playing a forthright and public role on the question because it is clear that without a large scale effort—a lot of these things have been said before. They have been heard before. Right now we are probably preaching to the choir here.

But the real point is this is going to be a political fight and unless the Democratic party along with the AFL-CIO and the unemployment advocacy organizations, church and civil rights groups, unless those different parts of the political arena really bring their weight to bear, I think it is obvious that the bill will go just so far.

We think it can pass if those forces line up and come out and use their platform to arouse public opinion and mobilization.

Thank you.

[The prepared statement follows:]

TESTIMONY OF KEITH BROOKS, COORDINATOR NEW YORK UNEMPLOYED COMMITTEE, IN FAVOR OF HR 1367

My name is Keith Brooks and along with Manny Ness, I am the coordinator of the New York Unemployed Committee. We are also both on the staff of Local 802 of the American Federation of Musicians.

We think that HR 1367 is a step in the right direction towards rebuilding a unemployment insurance system that has been greatly undermined over the last decade. By now the statistics have become familiar: 65 weeks of unemployment benefits available in 1977 with over 70 percent of the unemployed collecting; today only 26 weeks of benefits with little more than one third of the counted unemployed collecting. Last year, a "non-recessionary" year 2.3 million people used up all their benefits without finding a job, left to fend without a source of income.

The only government program designed to provide a cushion for the jobless is failing miserably. That is because the government of George Bush is failing miserably in its responsibility to the American people. Now that the cheering for the Gulf war is dying down, there is a harsh reality to be faced at home. Who is going to rescue the over 8 million people out of work, the 6 million forced to work part time because they cannot get full time work, or the million workers considered so discouraged they are not part of the labor force? It is time to declare war on unemployment, on evictions and mortgage foreclosures, on utility turnoffs and on lack of medical care.

What does President Bush propose the unemployed should do? Does he not believe we are in a recession? Does he believe there really are jobs available?

In regard to specific provisions of HR 1367:

1. We support the substitution of the total unemployment rate for the insured unemployment rate as a trigger to determine when states can qualify for additional weeks of unemployment benefits. As fewer of the unemployed collect unemployment benefits, using this index is an increasingly inaccurate measure of the real long term unemployment problem.

However, there are problems with the current way in which the total unemployment rate is calculated. It excludes the one million discouraged workers, and does not take into account first time job seekers and other categories. We would urge the use of the Department of Labor's own little publicized "U7" unemployment rate, which partially includes those categories, and which is currently estimated at close to 9 percent, compared to the 6.5 percent unemployment rate most commonly referred to.

2. We support raising the taxable wage base for unemployment insurance tax purposes; we support the limiting of state restrictions on eligibility, and we support the reforms for the funding of the centers.

3. We believe the number of weeks the bill would add on is too little. While we recognize current political realities, we want to see the 65 weeks of benefits restored. As with the health care issue, the United States stands near the bottom of the western industrialized countries in the amount of weeks provided for the unemployed, as well as in the percentage of the wages unemployment benefits replaces.

4. We also have some questions. HR 1367 says nothing about the $8 billion dollars in the federal extended unemployment compensation account, yet calls for doing away with the program it was set up to fund. What is supposed to happen to that $8 billion?

7. Finally, we all know of the Bush administration's stubborn opposition to providing for the unemployed. But if Ronald Reagan was forced to accept the Federal Supplemental Compensation Act of 1982, even as he was simultaneously sabotaging the extended benefits program, we believe that faced with enough pressure from the American people, George Bush can see the light.

But what about those who are supposed to represent the working people, whose voices have not yet been heard on this issue. Where does the Chairman of House Ways and Means Committee stand? Why have we not yet heard from Senator Moynihan, Bentsen and others? It is clear that without a large scale effort on the part of the AFL CIO, the Democratic Party, and unemployed advocacy groups to mobilize public opinion and bring pressure to bear, that this bill will get just so far. To all our elected officials in congress, we say it is time to stand up and be counted and have your voices heard.

Acting Chairman **Downey**. Thank you, Mr. Brooks. I think Mr. Brooks has adequately summarized his view. You need not testify before me as to the need for this bill. I think that it is essential. I think that it is obscene that we would allow people like yourself, Mr. Garry, who is interested in working, and Mr. Valentin and Mr. Matthews, from being put in the position of losing your homes, other assets, during a period of unemployment when you want to work. It is craziness.

But this is not going to be an easy task to pass. It is going to be difficult to get it out of the subcommittee. It is going to be difficult to pass it in the full committee. And we are going to have a hard time getting it on the floor.

I would tell you that it is likely to be changed beyond recognition before it ever winds up on George Bush's desk with his signature. But we are committed to doing a number of things, and most important in my mind is changing the extended benefit provision. And while many other aspects of this law need to be changed, that is foremost in my mind in terms of what we need to do.

The answer quickly, Mr. Brooks, to your point, and then we have to go vote, about where this $8 billion would go is some of it, of course, will be spent on extended benefits, on the liberalization of the program in the event that we can get this passed.

But clearly it is still the appropriate question to ask other policy makers why is it there when in fact you have such real and pressing needs around the country.

So your voice is not lost on me certainly, nor on Mr. Coyne, nor on any member of the Congress and I am going to share some of the points that you have made, Mr. Garry and especially you, Mr. Matthews and Mr. Valentin. You have been looking for work and when you show up at a Breyers Ice Cream place, there are a couple of thousand people after you applying for a few jobs. I know that is true. There are real people behind these numbers. We understand that, and we are going to do the very best we can to change it in your favor.

The subcommittee stands adjourned.

[Whereupon, at 4:10 p.m., the subcommittee adjourned, to reconvene at 10 a.m., Friday, March 22, 1991.]

UNEMPLOYMENT INSURANCE REFORM ACT OF 1991

FRIDAY, MARCH 22, 1991

House of Representatives,
Committee on Ways and Means,
Subcommittee on Human Resources,
Washington, D.C.

The subcommittee met, pursuant to call, at 10 a.m., in room B-318, Rayburn House Office Building, Hon. Thomas J. Downey (acting chairman of the subcommittee) presiding.

Acting Chairman Downey. Good morning. Today we hold the second and final hearing on H.R. 1367, the Unemployment Insurance Reform Act of 1991.

First, we will hear from a panel representing the American Federation of State, County & Municipal Employees, the American Federation of Teachers, the Service Employees International Union, and the National Federation of Independent Business.

After this panel, we will hear from one of the foremost experts of the unemployment insurance system, Wayne Vroman, a senior research associate at the Urban Institute.

I said yesterday that I intend to move quickly to help unemployed workers during this recession. Nothing I heard yesterday deters me from this goal.

The administration's resistance to helping workers might slow us down, but I remain steadfast in my belief that the President will eventually come around to our point of view. Hope springs eternal.

The first panel may proceed to the witness table.

Jerry Klepner, director of legislation, American Federation of State, County & Municipal Employees, AFL-CIO; David Gray, president, Oklahoma City Federation of Classified Employees, American Federation of Teachers; Victoria Cook Bumbaugh, president, SEIU Local 31-M, Detroit, Mich.; and D.J. Gribbin, legislative representative, National Federation of Independent Business. You may proceed.

STATEMENT OF JERRY D. KLEPNER, DIRECTOR OF LEGISLATION, AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES, AFL-CIO

Mr. Klepner. Thank you.

My name is Jerry Klepner. I am director of legislation of the American Federation of State, County & Municipal Employees.

On behalf of the 1.3 million members of our union, particularly the 25,000 who work in local unemployment offices, I want to commend you, Mr. Downey, and you, Mr. Levin, for your leadership in developing H.R. 1367 and commitment to enacting this vital legislation into law.

I would ask that my entire statement be included in the record of these hearings.

Acting Chairman DOWNEY. Without objection, it will be included in the record.

Mr. KLEPNER. Thank you.

With one reservation, we wholeheartedly endorse H.R. 1367, and we join with you, Mr. Chairman, in making enactment of this legislation a priority of our union.

This legislation is essential. It would reverse the decade-long process of cutbacks in a vital program for unemployed American workers. It would bring an important measure of added security to the victims of job dislocation in this or any other recession. It would ease the burden and personal trauma of unemployment and provide necessary assistance to those who are temporarily out of work.

If there were any questions about the necessity for this legislation, I think today's headlines in the business section of the Washington Post should put them to rest.

The headline reads, "Initial Jobless Claims, Layoffs Continue To Rise, Figures Seen As Sign of Weakening Economy."

Certainly in this atmosphere, we need this legislation, and it should be enacted into law quickly. In my few remaining minutes, I would like to focus my comments on two provisions of the bill.

In seeking to rebuild the unemployment compensation program, it is essential that the administration of the local offices be placed on a more reliable basis. As you know, the system entered the current recession with the least administrative capacity in decades.

Federal funding has become less reliable. Funding shortfalls have occurred in 10 of the last 18 years. Offices have been closed. Staff has been reduced 25 percent since 1983, and payment delays have grown dramatically. This past year is a good example.

We entered this year certain of a shortfall because of the problems in the appropriations process caused by the spending caps, and also caused by the budget agreement that was adopted last fall. Coupled with an increasing unemployment rate, due to the recession, the shortfall grew to $200 million in the first 3 months of this fiscal year.

Experiencing their own fiscal problems, the States have held back. They did not expand their staff or their services. And the unemployed have been the ones to suffer. Even with a supplemental appropriation, the hardships that already have been suffered by individuals cannot be erased.

It is particularly exasperating to know that the system has plenty of money, that there is a surplus of over a billion dollars in the trust fund. But because of current budget rules, this money sits there while people have to wait 5, 6, 7, or 8 weeks or more for their first unemployment checks.

Unemployment insurance is the only State-administered benefit entitlement program subject to the domestic discretionary spending caps. Administrative money must coincide with workload demands. It must become an entitlement as your bill provides.

The other provision that I would like to touch upon for just a minute is the expansion of coverage to educational support employees. Prior to 1983, 17 States provided unemployment coverage to educational support employees between academic terms.

These individuals are low-wage workers. They are the cafeteria workers, the school crossing guards—those individuals who are at the very bottom of the pay scale in school systems.

When they are forced into unemployment between academic terms, they look for jobs, but it is very difficult to find work for such a short period of time. No other workers, other than professional athletes, are forced to suffer this type of penalty if they are seasonally unemployed.

A review of the current situation with regard to these employees makes it very clear how inequitable current Federal policy is. If, for example, a crossing guard works for the sheriff's office, then, if State law permits, that crossing guard can receive unemployment compensation between academic terms. If that individual—performing exactly the same job—works for a school board, Federal law precludes that individual from receiving unemployment compensation.

If a cafeteria worker works for a private contractor, then, again State law permitting, the cafeteria worker is eligible for unemployment compensation.

However, if a cafeteria worker works directly for the school system, once again that individual cannot receive unemployment compensation. The law is inequitable. The law should be changed.

Your bill, Mr. Chairman, as you know, does not mandate the States to do anything. It simply says that the Federal Government will not preclude the States from providing this type of unemployment compensation, and if the States wish, they may once again offer unemployment benefits to this group of employees.

We feel that this provision is also an essential component of the bill.

In summary, Mr. Chairman, the entire unemployment compensation systems is in disrepair. The boom years of the 1980s made it possible to ignore the system's decline. Now, the long lines and delayed payments of the recession have brought the atrophy of the system into focus.

We greatly appreciate your leadership in seeking to rebuild this vital program. We are committed to the same goals as you are, and we look forward to working closely with you in that endeavor.

Thank you very much for allowing me to testify and, at the appropriate time, I will be happy to answer any questions.

[The prepared statement follows:]

Testimony of
Jerry D. Klepner, Director of Legislation
American Federation of State, County, and Municipal Employees
before the
Human Resources Subcommittee
of the
House Ways and Means Committee
on
H.R. 1367
March 22, 1991

Mr. Chairman and members of the Subcommittee, I am Jerry Klepner, Director of Legislation of the American Federation of State, County and Municipal Employees (AFSCME). Our union represents 1.3 million state and local government employees, approximately 25,000 of whom work in local unemployment offices. We appreciate having the opportunity to testify this morning.

At the outset, I want to emphasize that AFSCME enthusiastically supports H.R. 1367. We would like to compliment you, Congressman Downey, on this vital and comprehensive initiative. We are especially pleased with the legislation's administrative financing reforms and its provisions restoring coverage to the uninsured, including educational support employees. We also strongly support replacing the current extended benefits program with the proposed Federal Supplemental Compensation program and restructuring the Federal unemployment tax to make it more progressive.

H.R. 1367 is badly needed. A decade of neglect by the federal and state governments has seriously impaired the ability of the unemployment insurance (UI) program to fulfill its twin objectives: to provide temporary income to unemployed workers until they return to work and to produce a countercyclical effect on the economy by sustaining consumer buying power.

The nation entered the current recession with benefit coverage at an all-time low and with state administrative capacity to process benefit claims so weakened that the entitlement to benefits has been jeopardized.

Unemployment insurance protection declined significantly during the 1980's. When the program was created in 1935, almost all of the unemployed were eligible. In the late 1970's, 50-70 percent of the unemployed received benefits. By last year, only one-third of the unemployed received benefits.

Federal and state policies contributed to this significant reduction in coverage. The states came out of the 1982 recession with their benefit trust funds almost $6 billion in the red and with a new federal requirement to pay interest on money borrowed from the federal government. Many built up their reserves to avoid future borrowing by increasing disqualification penalties, shortening maximum benefit durations, and raising base period earnings rules. In other words, they restricted eligibility and benefits in order to improve solvency and avoid employer tax increases.

The federal government took similar steps during this period. Among other actions, it arbitrarily excluded non-instructional education employees from the unemployment insurance system during their recurring bouts of involuntary joblessness.

As you know, Mr. Chairman, we have sought to restore the state option to provide unemployment compensation to this group of education workers since its removal in 1983. With the enthusiastic support of this subcommittee, the House approved this provision as part of the Budget Reconciliation Act of 1989, but it failed in conference. Restoring eligibility to this group of low-wage workers would have a major impact on the lives of thousands of families living at or near the poverty level. These workers should not be differentiated from other seasonal workers who are entitled to unemployment benefits under state law in such a punitive way. We strongly support Sec. 203 of H.R. 1367, which would correct this inequity.

The federal government also limited benefits for the entire workforce in the early 1980's by raising the Insured Unemployment Rate (IUR) trigger for activating the extended benefits program and by excluding from the IUR calculation unemployed workers receiving extended benefits. The combined effect of state and federal policies restricting eligibility means that the IUR covers a much smaller share of the unemployed today than it did ten years ago. It has become a very poor indicator of unemployment, and, consequently, the extended benefits program has become ineffectual.

H. R. 1367 reverses federal and state policies that have restricted benefits over the last ten years. It prevents states from establishing unreasonable disqualification rules to limit benefit coverage. It also replaces the extended benefits program with a Federal Supplemental Compensation program triggered by state total unemployment rates and financed through a federal unemployment tax levied on a greatly expanded and more progressive wage base.

These improvements will be compromised, however, without the administrative financing reforms in the legislation. It is essential that the administration of the local unemployment offices be placed on a more reliable and flexible basis. Otherwise, eligible workers may not receive the protection to which they are entitled.

Despite declining coverage during the 1980's, the states found it increasingly difficult to maintain an adequate number of offices and experienced employees to process unemployment claims. Since 1983, state unemployment insurance staff levels dropped by 25 percent, from 57,000 to 43,000. The system entered the current recession with the least administrative capacity in decades.

A major reason for the dramatic decrease in staff and offices was declining federal financial support. Indeed, the full extent of the federal retreat has been obscured by the $140 million that approximately 38 states have contributed to the system. With 28 states now facing serious deficits, we expect state support to diminish and conditions in local unemployment offices to worsen.

Federal funding also has become less reliable. This year, like last year, the unemployment insurance system faced a serious administrative funding shortfall. These shortfalls developed because far more workers became unemployed than was anticipated when the appropriations committees took final action on Fiscal Year 1991 funding. This year's shortfall was $200 million.

The effects of the funding reductions and the current shortfall have become distressingly evident. Unemployed workers in the upper peninsula of Michigan have to drive 80 miles one way to reach an unemployment office. It has been taking 5 weeks or more to get the first unemployment check in Michigan. Payment delays are increasing in Connecticut, Maine, New Mexico, Indiana, and West Virginia. In Indiana, where the average number of claims per week jumped from 29,670 in October to 57,330 in December, the state is trying to operate without 17 offices that it had to close last year.

Some workers wait ten weeks for their first checks. A wait of 5, 6 or even 7 hours just to file a claim is not uncommon in many states. Telephones go unanswered; people get turned away from overcrowded offices; nerves get frayed; and backlogs build despite hours of overtime by tired and discouraged local office employees. Needless to say, the bill collectors still want their money, and the children still need to be fed. Clearly, the safety net is failing.

Administrative funding shortfalls are not new to the UI system. Indeed, shortfalls occurred in 10 out of the last 18 years, and supplemental appropriations were routinely provided. What is new now, however, is a budget process that has made it increasingly more difficult to assure adequate and timely funding.

Under the current budget rules, unemployment benefits are mandatory expenditures, but the administrative funds to pay benefits are classified as discretionary. That means that UI administrative funds must compete with all other domestic discretionary programs under strict spending caps.

It has become much harder to secure adequate UI funding in the regular Labor-HHS appropriation in this environment. This past fall, for example, conferees on the FY 1991 bill increased funds for UI and several domestic programs only to turn around and impose an across-the-board cut on all programs to bring the bill within the required spending ceiling. This action caused UI to lose $49 million of the $90 million increase and to enter the year with a certain shortfall.

Even if the Appropriations Committee fully funds the workload projected at the beginning of the fiscal year, unemployment may increase as the fiscal year progresses. Needless to say, the economy simply does not conform to the Congressional budget cycle. For example, as Congress worked on a supplemental appropriation for Fiscal Year 1990, unemployment started to escalate. The FY 1990 supplemental came too late to prevent many office closings, and was too little by the time it passed. The estimated unemployment rate for Fiscal Year 1991 has been revised upward three times since January of 1990. It rose from 5.3 percent in January, 1990 to 5.8 percent last July, to 6.1 percent last October, to 6.5 percent this January.

The current method for appropriating administrative funds is too inflexible and unresponsive to changing economic conditions. Surely the authors of the 1935 law never expected the entitlement to unemployment benefits to be jeopardized by a Congressional budget process that prevents administrative funds from rising and falling with workload fluctuations.

Unemployment insurance is the only state-administered benefit entitlement program which is subject to the domestic discretionary spending caps. This classification has caused a breakdown in the reciprocal relationship between the federal and state governments originally established by the unemployment insurance law 56 years ago. Under that arrangement, the states were charged with the "proper and efficient administration" of the program. The federal government was charged with financing state administrative expenses from an employer tax levied by the federal government under the Federal Unemployment Tax Act (FUTA).

There is no shortage of money from the Federal unemployment tax. The federal account presently holding the revenue dedicated exclusively to state administration had an excess balance of over $1 billion at the end of Fiscal Year 1990. The money, however is being held hostage by a rigid budget process that fails to accommodate the effect of economic changes on this entitlement program.

It is gratifying that the Administration and Congress appear close to final agreement on a $150 million "emergency" supplemental appropriation to address the FY 1991 shortfall. However, the appropriation comes halfway into the year -- too late to alleviate the hardships experienced by the unemployed and local unemployment office workers during the first six months of the year. In addition, the basic problems inherent in the manner in which the program is financed remain. If the economy worsens, there still is no mechanism in place to release needed administrative funds in a timely fashion during the remainder of the fiscal year. Over the next several years, the new budget process will intensify the competition between UI and other important domestic discretionary programs as the caps tighten up. It will be increasingly more difficult to adequately fund the system.

The only effective solution is to create an entitlement that releases funds according to workload demands. For that reason, we were very pleased that the administrative financing reforms in H.R. 1193, sponsored by Congressmen Sandy Levin and Don Pease, have been incorporated into H.R. 1367. These provisions are an essential component of any unemployment insurance reform.

Before concluding, we would like to point out a potential problem with the legislation. While H.R. 1367 proposes a very effective financing mechanism for the unemployment insurance program, it fails to do so for the Employment Service. Indeed, we are concerned that the proposed Federal Job Search Assistance program would exacerbate the staffing problems already plaguing an underfunded Employment Service. Because the voucher is too low to pay for the type of services envisioned in the bill, the Employment Service almost certainly will not fulfill its expectations. Alternatively, states could decide to contract out this function, further weakening the role of the Employment Service as a comprehensive labor exchange.

The job search voucher plan may also impose additional hardships on the unemployed. Workers with a firm attachment to the labor force do not need the threat of losing their benefits to be motivated to seek work. A far greater concern is that they would be denied vital financial support when they need it the most. We think a much more positive approach to increasing intensive job search assistance would be entitlement funding for the Employment Service. We encourage you to consider the entitlement provision proposed in H.R. 3896 last year as an alternative and we would be pleased to work with you on this matter.

In summary, Mr. Chairman, the entire Employment Security system is in disrepair. The boom years of the 1980's made it possible to ignore the system's decline. Now, the long lines and delayed payments of the recession have brought the atrophy of the system into sharp focus. We greatly appreciate your leadership in seeking to rebuild this vital program. We are also committed to the same goals and we look forward to working closely with you in that endeavor. I would be happy to answer any questions you might have.

STATEMENT OF DAVID GRAY, PRESIDENT, OKLAHOMA CITY FEDERATION OF CLASSIFIED EMPLOYEES, AMERICAN FEDERATION OF TEACHERS, AFL-CIO

Mr. **Gray**. Mr. Chairman and Members of the Committee, I am David Gray, president of the Oklahoma City Federation of Classified Employees, a local affiliate of the American Federation of Teachers. Thank you for the opportunity to be heard today with respect to H.R. 1367, the Unemployment Insurance Reform Act of 1991.

I would like to speak to some problems in the current unemployment insurance system that are addressed by H.R. 1367. But, first, let me say that the AFT endorses H.R. 1367 and would like to see it speedily enacted by Congress.

As you well know, the present unemployment insurance system is buckling under the load of economic recession and the fiscal plight of many States. Something must be done.

Increasing numbers of former employees find themselves in an economic free fall, as they slip through gaping holes in the so-called "safety net." They system simply is no longer as responsive to them as it should be, or as it once was.

Nowhere are the difficulties with the present system more evident than in the administrative delays and snarls which many claimants experience when they apply for benefits. There have been numerous reports of individuals being delayed benefits for many weeks, or of threatened closings of local offices, due to a lack of administrative resources.

Therefore, AFT is encouraged by the fact that H.R. 1367 incorporates a new means of administrative financing, one which will hopefully avoid the pitfalls of the annual appropriations process and will readily accommodate surges in the demand for benefits.

AFT represents many State employees who work in the unemployment insurance system, and I am sure they will be gratified by this change.

Another improvement offered by H.R. 1367, which I will just briefly mention, is the revamping of the extended benefits program. This is a vitally necessary reform.

By virtue of my experience in school maintenance work, and my current position as president of a local union of nonprofessional school employees, I would like to focus the rest of my testimony on a provision in H.R. 1367 that would restore to States the option of providing between-terms unemployment benefits to such employees. The elimination of that option, which occurred with the enactment of the 1983 Social Security Amendments, was, in my view, a gross inequity and bad social policy. You have heard many times, I am sure, the arguments in favor of reestablishing that State option, but it is incumbent upon me to briefly state some of them again.

Federal law initially allowed States the option to provide between-terms unemployment compensation to nonprofessional school employees, but this was changed during the congressional conference on the 1983 Social Security Amendments.

In this action States were arbitrarily denied any authority to allow such benefits, and this was done without congressional hearings or evidence of abuse. Reestablishing the State option would impose no burden or mandate upon the States, but would simply recognize the limited discretion of the States. Nor would reestablishing the option impose any real costs upon the Federal Government.

The impact of denying benefits to nonprofessional school employees is clearly discriminatory. With two notable exceptions, other categories of seasonal workers are not denied such benefits. Professional athletes are clearly in a different employment "league," and professional school employees are usually retain on a 12-month contract.

In addition, nonprofessional employees are commonly paid low wages, the lowest in the schools, and have less employment security than other school employees. Frequently they are women and minorities who live in areas where other employment opportunities are not available.

It is unrealistic to expect them to somehow save sufficient funds to carry themselves and their dependents through the between-terms period.

Although it would be a matter of State determination, and only 17 States previously opted to allow between-terms benefits for nonprofessional school employees, AFT believes it would be good personnel practice, as well as good social policy, if more States elected to do so.

Schools would benefit from stable earnings and greater retention among such employees, and this would likely strengthen employee morale. It has been the AFT's experience, over the last decade, or so, that encouraging stable careers for nonprofessional school employees has yielded many positive effects.

For example, in a period of growing shortages of teachers, particularly minority teachers, a number of school systems have discovered that career ladders for nonprofessionals have become a significant source of new, minority teachers. This has been made possible though stable employment and union-negotiated, employer-paid college courses.

Mr. Chairman, allowing States the option of providing between-terms benefits to nonprofessional school employees would further what I believe are the purposes of the unemployment insurance system.

Thus, AFT commends you and members of the committee for including this provision in H.R. 1367, the unemployment insurance of 1991, and AFT looks forward to working for swift enactment during this Congress.

Again, thank you for this opportunity to appear before the Committee. I will be pleased to respond to any questions.

[The prepared statement follows:]

TESTIMONY BY
DAVID GRAY
PRESIDENT
OKLAHOMA CITY FEDERATION OF CLASSIFIED EMPLOYEES
REPRESENTING THE
AMERICAN FEDERATION OF TEACHERS, AFL-CIO
BEFORE THE
U.S. HOUSE OF REPRESENTATIVES
WAYS AND MEANS COMMITTEE
SUBCOMMITTEE ON HUMAN RESOURCES

MARCH 22, 1991

Mr. Chairman and members of the committee, I am David Gray, President of the Oklahoma City Federation of Classified Employees, a local affiliate of the American Federation of Teachers. Thank you for the opportunity to be heard today with respect to H.R. 1367, the Unemployment Insurance Reform Act of 1991. I would like to speak to some problems in the current unemployment insurance system that are addressed by H.R. 1367. But, first, let me say that the AFT endorses H.R. 1367 and would like to see it speedily enacted by Congress.

As you well know, the present unemployment insurance system is buckling under the load of economic recession and the fiscal plight of many states. Something must be done. Increasing numbers of former employees find themselves in an economic free fall, as they slip through gaping holes in the so-called "safety net." The system simply is no longer as responsive to them as it should be, or as it once was.

Nowhere are the difficulties with the present system more evident than in the administrative delays and snarls which many claimants experience when they apply for benefits. There have been numerous reports of individuals being delayed benefits for many weeks, or of threatened closings of local offices, due to a lack of administrative resources. Therefore, AFT is encouraged by the fact that H.R.1367 incorporates a new means of administrative financing, one which will hopefully avoid the pitfalls of the annual appropriations process and will readily accommodate surges in the demand for benefits. AFT represents many state employees who work in the unemployment insurance system, and I'm sure they will be gratified by this change. Another improvement offered by H.R. 1367, which I will just briefly mention, is the revamping of the extended benefits program. This is a vitally necessary reform.

By virtue of my experience in school maintenance work, and my current position as president of a local union of non-professional school employees, I would like to focus the rest of my testimony on a provision in H.R. 1367 that would restore to states the option of providing between-terms unemployment benefits to such employees. The elimination of that option, which occurred with the enactment of the 1983 Social Security Amendments, was, in my view, a gross inequity and bad social policy. You've heard many times, I'm sure, the arguments in favor of reestablishing that state option, but it is incumbent upon me to briefly state some of them again.

Federal law initially allowed states the option to provide between-terms unemployment compensation to non-professional school employees, but this was changed during the congressional conference on the 1983 Social Security Amendments. In this action states were arbitrarily denied any authority to allow such benefits, and this was done without congressional hearings or evidence of abuse. Reestablishing the state option would impose no burden or mandate upon the states, but would simply recognize the limited discretion of the states. Nor would reestablishing the option impose any real costs upon the federal government.

The impact of denying benefits to non-professional school employees is clearly discriminatory. With two notable exceptions, other categories of seasonal workers are not denied such benefits. Professional athletes are clearly in a different employment "league," and professional school employees are usually retained on a twelve-month contract. In addition, non-professional employees are commonly paid low wages, the lowest in the schools, and have less employment security than other school employees. Frequently they are women and minorities who live in areas where other employment opportunities are not available. It is unrealistic to expect them to somehow save sufficient funds to carry themselves and their dependents through the between-terms period.

When we speak of non-professional school employees, we speak of teachers' aides, bus drivers, custodial and maintenance personnel, cafeteria workers, crossing guards and others whose work is essential to a supportive and nurturing environment for students. Ironically, some of these employees, who work in the schools but are not employed by the school system, are not summarily denied between-terms benefits. For example, a custodial or maintenance person who is paid by the city or county government, or is hired by a private contractor, is not withheld benefits by federal law. Thus, it is quite possible to have two employees who toil side by side, performing identical work, but paid by different employers, treated very differently -- one denied benefits while the other is not.

Although it would be a matter of state determination, and only seventeen states previously opted to allow between-terms benefits for non-professional school employees, AFT believes it would be good personnel practice, as well as good social policy, if more states elected to do so. Schools would benefit from stable earnings and greater retention among such employees, and this would likely strengthen employee morale. It has been the AFT's experience, over the last decade, or so, that encouraging stable careers for non-professional school employees has yielded many positive effects. For example, in a period of growing shortages of teachers, particularly minority teachers, a number of school systems have discovered that career ladders for non-professionals have become a significant source of new, minority teachers. This has been made possible through stable employment and union-negotiated, employer-paid college courses.

Mr. Chairman, allowing states the option of providing between-terms benefits to non-professional school employees would further what I believe are the purposes of the unemployment insurance system. Thus, AFT commends you and members of the committee for including this provision in H.R.1367, the Unemployment Insurance Act of 1991, and AFT looks forward to working for swift enactment during this Congress. In closing, I would like to suggest one item for the committee's future consideration. That is the opening of opportunity for unemployed persons, particularly in declining industries, or other cases where the long-term employment prospects are not good, to pursue education or training while receiving the benefits to which they are otherwise entitled. Change in that direction would make sense in terms of expanding personal opportunity, contributing to economic growth and productivity, and efficiently using program resources. Again, thank you for this opportunity to appear before the committee; I will be pleased to respond to any questions.

Acting Chairman DOWNEY. Thank you, Mr. Gray. Ms. Bumbaugh.

STATEMENT OF VICTORIA COOK BUMBAUGH, PRESIDENT, LOCAL 31-M, DETROIT, MICH., SERVICE EMPLOYEES INTERNATIONAL UNION

Ms. BUMBAUGH. Good morning. My name is Victoria Cook Bumbaugh and I am the president of the local 31-M of the Service Employees International Union. I am also chair of the SEIU workgroup on employment service and unemployment insurance issues.

SEIU represents 15,000 members who work in the employment security system, including the 1,500 members in my Local who are employed by the Michigan Employment Services Department.

On behalf of SEIU and is 950,000 members, I want to thank you, Chairman Downey, and the other members of the Subcommittee on Human Resources of the Committee on Ways and Means for the opportunity to testify on your proposal to reform the unemployment insurance system.

We are all aware that the unemployment insurance system has been heading downhill over the last 10 years. It is no longer the economic stabilizer that it was designed to be. Today, only one of three unemployment workers receives unemployment compensation—compared to three-fourths in 1975.

And the system has failed miserably to provide for the needs of those facing prolonged periods of unemployment. Almost one-third of those who do get UI payments exhaust their benefits before they find a job. Unrealistic and unworkable triggers for extended benefits have the effect of denying benefits to most long-term unemployed workers.

Even the minority of unemployed workers who do receive benefits are witnessing the failure of the system. Because of chronic underfunding of administrative services, workers often must wait 5 or 6 weeks before receiving their benefit checks.

I think it would be hard for anyone to have to wait even 1 or 2 or 3 weeks to receive a payroll check, just as it is hard to receive an unemployment check for which you have to wait 5 or 6 weeks.

SEIU strongly supports the Unemployment Insurance Reform Act of 1991. H.R. 1367 would achieve major strides toward restoring the ability of the UI system to respond to worker dislocations. It would also enact some much needed reforms in the administrative financing.

As representatives of workers who staff unemployment offices in States across the country, we have observed a steady deterioration in the ability of the unemployment offices to serve the needs of the unemployed. Thanks to staffing instability and funding shortfalls, State unemployment offices cannot keep up with fluctuations in the numbers of unemployed. And UI offices have been particularly ill-prepared to handle the surge in the number of UI claims due to the current recession.

Executives are being laid off in companies such as Ford Motor Co., computer companies such as Digital. Even smaller businesses are beginning to lay off more frequently. So the fluctuation in the numbers is not as consistent as what could be determined in the years prior. UI offices have been particularly unprepared due to the current recession that is hitting us.

In my State of Michigan, we are witnessing long lines with waits of 3 to 6 hours, delays in processing check, and increased frustrations confronting unemployment workers who are already in difficult circumstances.

In Michigan, we have gone from a staff of 6,400 to approximately 2,100. In September of 1990, Michigan paid 283,000 claims. In January 1991, we paid 823,000 claims. So since the beginning of this fiscal year, Michigan has an increase of 191 percent in payments of claims in just the beginning of this fiscal year.

Claims that are considered to be clean or simple claims that are just considered to be a lack of work, they have no problems. The people are laid off, they come in, they file. These people are waiting 4 to 6 weeks to get claims paid.

Adjudication of claims that can be considered to be problem claims, those can take anywhere from 8 to 13 weeks in our State.

People have begun to throw rocks at our offices. We have actually had claimants come in and bash their fists through the plexiglas of the glass entrance doors. We had an occasion where someone drove their car right up to the front door and smashed it in.

We used to have security guards stationed at a lot of the offices where we would run into problems, but because of financial reasons, we had to lay off those security guards and we no longer have security officers in those buildings to protect the workers that service the public.

Our members in New York State report severe understaffing of unemployment offices. One member is working in an office with a workload large enough to justify staffing over a hundred workers; but the office is able to employ only 50.

In California, in talking with our ES offices, UI offices in California, we have found out that violence has erupted in Los Angeles. Claimants are so hostile over the long wait in L.A. just to file a claim, they are waiting so long that the State police have been called out on occasion, anywhere from 2 to 3 times per week.

For the past 2 months, the unemployment office in the San Fernando Valley had claimants lined up out the door. Again, this is just to file a claim. San Diego workers are putting in 10 hour days, 6 days a week and are still behind in their payments of unemployment claims.

In the Bay Area, the claim load has almost doubled from where it was 1 year ago. The good news is they are only a few weeks behind in the payment of checks, but the bad news is this is because they are working 10, 11 hour days, and putting in 8 hours on Saturday.

It goes without saying that this type of overtime, if you look at an employment security budget, it only cuts into staffing even harder. Sacramento's volume of work has also increased.

In general, we are just getting reports from the State of California that are—with our members that the workload has basically doubled.

These workers are being seriously handicapped in their ability to accomplish the important mission of the ES/UI program. The approach that has allowed for an annual cycle of pursuing supplemental spending bills to keep the unemployment insurance system running is simply a band-aid.

This year is particularly indicative of the difficulties which arise from an approach which relies on supplemental appropriations to respond to actual unemployment levels which exceed projected levels. The initial budget request was based on unemployment projections of 5.3 percent. Currently, the rate is 6.5 percent nationwide. It only makes sense to tie administrative funds for entitlement programs together as appropriated entitlements—so people can get the benefits to which they are entitled in a timely fashion.

Unemployed workers need to have their benefit checks issued on time; it is a disgrace that they have to wait up to 6 weeks or sometimes even longer, depending on the State. That is why improvements in the administrative system are essential for putting the UI program back on track. Accordingly, SEIU strongly supports the features of the proposed bill which put an end to the persistent cycle of seeking supplements to address budgeting shortfalls for ES/UI administrative operating costs.

SEIU endorses removing unemployment insurance from the budget deficit debate. Provisions in H.R. 1367 which identify ES/UI as an appropriated entitlement grant are an important and useful first stop by taking it out of the domestic discretionary spending caps. UI would be exempt from sequestration like other entitlement programs.

SEIU would further support taking the UI trust funds off budget, in the same manner as Social Security. The moneys in the unemployment insurance trust funds may be used only for unemployment insurance benefits and administrative expenses. UI program needs are not served by including these funds as part of the overall Federal budget. The sole purpose for doing so is to create a bookkeeping illusion that masks the actual size of the budget deficit.

It is more important to free up funds for administration of the program than to maintain this illusion. There is widespread agreement by labor, ES/UI administrators, and employers—who pay into the trust funds—that the money in these funds should be used for the purpose for which it is collected. Coalitions have formed in Washington, D.C., and in the States to support this principle.

Certainly in my own State of Michigan, my local union has been participating in a broad-based group concerned about the administration of the unemployment insurance system. The group, which includes representatives of labor, State legislators, and businesses such as General Motors, K mart, the Small Business Association of Michigan, the Michigan Manufactures Association, and others, has advocated removing the trust fund accounts from the Federal Unified Budget. We are heartened that the Unemployment Insurance Reform Act of 1991 takes a positive first step by designating the financing of these funds as an appropriated entitlement grant.

Moreover, SEIU is particularly pleased with the provision of the legislation that ties the grants for UI administration to growth in the labor force and State salaries. Such a provision should ease the persistent understaffing in UI offices.

Not only is appropriate funding needed to adequately service the public of the United States, but it would also allow the workers in the unemployment offices to be able to work in an environment that is free of such high levels of stress, hostility, and as you heard me testify, sometimes violence.

In addition to the administrative financing issue, I wish to comment on other important provisions of the act that would help restore the integrity and effectiveness of the UI system.

SEIU takes special note of the provisions in the bill concerning unemployed school workers. Our membership includes over 100,000 school employees. We appreciate the proposal to give States the option to provide unemployment compensation to nonprofessional school employees during academic breaks. This would address an inequity created in 1983 when the current blanket denial requirement was added to the Social Security bill in the absence of normal legislative deliberations. No public hearings were held prior to its inclusion in the Senate version of the legislation and adoption in conference.

Singling out seasonal employees who happen to work for an education department runs counter to interests in strengthening the nation's education system. The current restriction causes lower morale, disruption in the work force, and increased staff turnover. The blanket restriction should be removed.

The employment service component of the ES/UI program has suffered perhaps the greatest deterioration of any aspect of services offered to unemployed workers. The Bush administration in its fiscal year 1992 budget proposal seeks to do further damage to the program. The administration proposed focusing employment service offerings only on minorities, those entering the labor force, and those with lower levels of skills and experience.

SEIU objects to the curtailed role and reduced funding for the employment service envisioned by the administration. Furthermore, we agree that the functions covered by the proposed Federal Job Search Assistance program are vital. If these functions can be provided through a strengthened and properly funded employment service, SEIU takes the position that would be a more efficient means to achieve the ends we seek.

Currently one of the problems that is happening in the employment security offices is that because of the level of unemployment the staffing levels are so low that the UI portions of payment authorization offices, branch offices, they are called many different things across the country, but they take the employment service worker and take them over to work in UI.

They take any warm body they can find to administer the UI program. Not only does that compromise the integrity of the UI program, but it defeats the integrity of the employment service.

Another key component of the legislation is the overhaul of the extended benefits program. The present insured unemployment rate (IUR) trigger does not adequately capture increases in long-term unemployment. As a result, only four States—Michigan, Rhode Island, Maine, and Alaska—have qualified for extended benefits, despite a 6.5 percent unemployment rate.

We are fully supportive of an initiative to replace the current troubled program with a permanent Federal supplemental compensation program. Particularly during a recession, workers need a reliable program to provide extended benefits when they are faced with prolonged periods of joblessness.

We also support the legislation's efforts to restore unemployment insurance to the uninsured, including restoring ex-service member's benefits.

On the tax issue, SEIU endorses forward funding of the system. We need to build up reserves during the good years so that there will be adequate funds during the bad years. Although the height of the recession is not the best time to raise taxes, there is not another alternative given the current state of the UI system.

Finally, I would also like to add that SEIU supports the provisions of Congressman Stark's legislation, the Health Insurance Act of 1991, which would enable long-term unemployed workers to qualify for Medicare coverage.

Thank you for the opportunity to present SEIU's views on reform of the unemployment insurance system. I would be happy to answer any questions you may have at this time.

Acting Chairman DOWNEY. Thank you, Ms. Bumbaugh.

Mr. Gribbin.

STATEMENT OF D.J. GRIBBIN, LEGISLATIVE REPRESENTATIVE, NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Mr. GRIBBIN. Thank you, Mr. Chairman, and members of the committee. My name is D.J. Gribbin. I am a legislative representative for the National Federation of Independent Business.

We appreciate the opportunity to explain how H.R. 1367, the Unemployment Insurance Reform Act of 1991, will affect this nation's small businesses.

NFIB represents half a million small businesses across the country, and our typical member has seven employees, so we represent the small end of the small business sector of our economy.

Since my written statement is going to be introduced in the record, let me just briefly summarize three major points I would like to make. First of all, I would like to cover some of the changes that small businesses would like to see in the current UI program.

Second, I will explain some of the basic disagreements we have with the need for H.R. 1367; and finally, I will discuss why we think that this legislation is contrary to the purpose and nature of the UI system.

First of all, let me outline some of the changes that small business would like to see in the UI system. I agree with the other panelists that the administrative funding mechanism has to be changed. Under current law, employers are paying the Federal Government administrative funds which are supposed to flow back to the States. They are not.

They are being held by the Federal Government to offset the Federal budget deficit. As a result, some States have had such a hard time funding the administration of the UI program that they have had to levy additional taxes. And in those States, employers are paying twice for the same service.

So we are pleased to see that H.R. 1367 contains a provision that would increase the flow of these funds from the Federal Government back to the States.

Another change small business owners would like to see in the current system is that many States have laws which do not allow small business owners to collect unemployment insurance if their small business has gone bankrupt. They determine that if your business goes under, you must be responsible, and therefore, you are not eligible for UI benefits.

Either small business employers should be allowed to collect benefits, or if they are going to be denied benefits as a class, they should not have to pay into the UI system.

Let me turn now to the second point I would like to cover which is some of the fundamental disagreements we have with the need for the Unemployment Insurance Reform Act of 1991.

We see no reason to increase taxes to pay for extended benefits. State funds are currently paying benefits to eligible UI recipients, and only a few States are going to be required to borrow money from the Federal trust funds.

We don't see that as necessarily a weakness in the system. The UI system was developed with the Federal trust fund so that individual States would not have to run up huge surpluses in their own trust funds, and in times of economic downturn, they can turn to the Federal trust fund.

In addition, let's not forget that current law already provides half a year of benefits to workers who are laid off or lose their job through no fault of their own, and in addition to that half year they are also eligible for an additional 13 weeks of benefits if they happen to be unfortunate enough to be in a State that is experiencing high unemployment at the time they lose their job.

Increasing taxes during a recession is not a good idea economically and increasing this tax is a particularly bad idea because this tax is a tax on jobs. It directly increases the cost to an employer of hiring additional workers and keeping the workers he already has on payroll, And by its very nature this tax is regressive.

An employer has to pay the tax on the first dollar his employees earn up to the wage cap.

Finally, let me talk a little bit about why we think H.R. 1367 works contrary to the purpose and the nature of the UI system. The UI system was designed to be an insurance system. It was supposed to be a short-term bridge between one job and another. Now, necessarily, by definition, the UI system does not address the problem of long-term unemployment.

However, we think converting the UI system into a social welfare program for the unemployed is a bad idea because it is funded through taxes on jobs. If you want to develop a system to help people who are out of work for long periods, it should be funded through general revenues and not through the FUTA tax.

Finally, the UI system was primarily set up to be run by the States. Employers feel that States are more responsive to their needs and the needs of the unemployed than the Federal Government. They are able to have greater flexibility. Provisions in H.R. 1367 limiting the state's ability to determine the eligibility of UI recipients will seriously increase the cost of the UI system to the States forcing States to increase their taxes or heavily borrow from the Federal trust fund.

We need to remember that States currently have all the authority they need to increase benefits to cover those who are out of a job for more than 6 months and we see no reason for the Federal

Government to step in at this time and usurp the state's authority in this area.

Let me conclude by saying that expanding the benefits program would cost at a minimum $27 billion in the next 5 years to those who are doing the hiring in this country. Employers should be encouraged to add workers to their payrolls and not discouraged.

Thank you again for this opportunity to testify. I would be pleased to answer any questions you may have.

Acting Chairman DOWNEY. Thank you.

[The prepared statement follows:]

NFIB
National Federation of
Independent Business

STATEMENT OF

D.J. GRIBBIN
LEGISLATIVE REPRESENTATIVE

NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Before: House Subcommittee on Human Resources, Committee on Ways and Means

Subject: The Unemployment Insurance Reform Act of 1991

Date: March 22, 1991

Mr. Chairman on behalf of the National Federation of Independent Business (NFIB) and the more than 500,000 small businessmen and women who are its members I want to thank you for this opportunity to present NFIB's concerns with the Unemployment Insurance Reform Act of 1991.

NFIB is the nation's largest small business advocacy organization, and our members employ about 7 million people. NFIB members include proportional representation of all industries, with a typical NFIB member employing 7 workers. These firms are Main Street small businesses -- they are the backbone of their local economies, and consequently the national economy.

In the 1980's small firms were responsible for over 70% of the more than 14 million net new jobs created. The reason for this phenomenon is that small firms hire people -- not machines -- to work. People are a small firm's most important, as well as most expensive, resource. That is why payroll tax issues, like Social Security (FICA) and in this case, unemployment insurance (FUTA), have such a tremendous bearing on the health and viability of small businesses.

History of The Federal Unemployment Tax Act

It is important to recall the reasons for establishing the unemployment compensation program over 50 years ago and its success in meeting the needs for which it was designed.

The unemployment insurance system was designed to:

- provide temporary cash benefits to those out of work through no fault of their own;
- provide for additional circulation of money during economically disastrous downturns; and
- assist the unemployed in finding gainful employment.

This re-clarification will explain why the legislation being discussed before this subcommittee today, with its emphasis on expanding the unemployment insurance system, is potentially dangerous to the economic health of the current program.

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The Guardian of
Small Business

In 1935, Congress adopted the federal unemployment insurance program as part of the Social Security Act, part of which included the Federal Unemployment Tax Act (FUTA). This was the first comprehensive federal approach. Prior to this time, some states had taken the lead in establishing similar programs. For the first time, the federal government took the initiative by adding incentives and penalties to encourage participation. As a result, every state that did not have a state unemployment insurance (UI) program prior to 1935 adopted legislation so that they would be able to take advantage of the FUTA tax credit available to employers whose states had a state program in place.

Under current law, FUTA tax funds are used to finance state and federal administrative costs of the UI program, the 50% federal share of the Extended Benefits program, and a loan fund for states that need money to temporarily bolster state trust funds. The federal government sets certain basic requirements that states must meet in order to be in conformity with federal law and eligible for the FUTA tax credit.

Whereas FUTA is a flat-rated tax, state UI taxes are experience-rated, i.e. graduated tax schedules based upon layoff experience. The state taxable wage base varies among the states, but must be at least $7,000 under federal law. State taxes are used to pay UI benefits. This tax on labor is paid exclusively by the employer.

Small Business Comments on Current Law

As you may know, NFIB regularly polls its members on policy issues both at the federal level and in each of the fifty states. The issue of unemployment insurance is a continuing concern to our small business members because it is directly related to employment, wages, and labor costs.

On the overall structure of the UI system, NFIB members strongly support efforts to provide a more fully experience-rated system than is currently in place in most states (78% favor to 16% oppose -- Mandate #463). Small firms with stable work forces typically subsidize employers in declining industries with large layoffs. This socialization unfairly penalizes good, stable, employers and rewards those employers who have had high levels of employee turnover.

NFIB members also support, by 83%, the change enacted in 1981 in which the national trigger for extended benefits was eliminated and state triggers were substituted. This change more accurately reflected the differing employment situations in the states. States with relatively low unemployment no longer have to pay higher taxes because of the higher unemployment rates in other states.

NFIB members voted in 1985 against the creation of sub-state triggers (65% against). This view is supported by the results of a May, 1984 study on this issue by the Department of Labor, conducted at the request of Congress.

NFIB has also advocated returning the administrative funds collected by the federal government to the states. Several states have been forced to levy additional taxes on the employers of those states because the federal government has not returned enough money to operate their unemployment insurance programs. This double taxation of employers should be remedied immediately by returning administrative funds to the states. Your legislation would help relieve this problem by increasing the flow of funds back to the states.

One of the complaints we hear most often from small business owners regarding the unemployment compensation system is the unfair treatment of some owner-employees. After having paid their FUTA taxes, some small business owners are denied unemployment benefits if their firm should go out of business. NFIB members voted by a margin of 72% in favor of exempting employers from payment of UI taxes if they are ineligible to receive UI benefits. This is another example of small business owners subsidizing benefits. Corrective action should be taken.

Although NFIB members have a variety of concerns with the current unemployment compensation system, these concerns are not about the fundamental nature of the system and do not require a major overhaul in the current operations of the system.

The Need for Expansion of the Trust Funds

Some have expressed concern over the adequacy of the current state trust funds. They argue that the trust fund reserves need to be higher to weather a recession. NFIB believes the current system is operating well, even though it appears that a couple states may have to borrow money before the end of the year.

The current UI system has worked well over the past fifty years with its limited and specific goal of providing temporary replacement income to unemployed individuals. In our view and that of many other experts in the field of unemployment insurance, the funding, structure, and delivery system of the unemployment compensation program is not designed to be expanded beyond its current limits.

Taxes are currently sufficient to cover benefits and all states are currently paying statutorily authorized benefits to all eligible Unemployment Compensation claimants. No eligible claimants are being denied benefits. If a state does not have sufficient funds to pay the benefits authorized by state law, it has three choices: (1) increase taxes; (2) cut benefit payments; or (3) borrow money from the Federal Unemployment Account (FUA). This is preeminently a matter for the states, who determine benefit levels, to decide.

The question of Unemployment Compensation trust fund adequacy is one about which reasonable people can disagree. We view this issue of trust fund adequacy as a balancing act. On one hand, you do not want a bloated Unemployment Compensation trust fund for two reasons: (1) extracting excess tax revenues from employers hurts the economy and (2) excessive trust fund reserves are an invitation for benefit increases based solely on the dollars available at any given time. On the other hand, states should not sit back and watch the trust funds dwindle down to nothing and then either be forced to raise taxes in a recessionary period or borrow heavily from the Federal Unemployment Account (FUA). States must maintain sufficient but not excessive reserves.

At the present time, it appears that all but a few of the state trust funds will have no problem weathering the current recession.

The Need for Additional Benefits

Another point of contention is benefit adequacy. The question of benefit adequacy is a subjective issue. It is essentially a question of how much is enough.

As debate on this issue has highlighted, the current UI program does not protect workers who have been out of work for more than 26 weeks (39 weeks if they are eligible for extended benefits). How long unemployment benefits should last is also a question on which reasonable people can differ. On the one hand, the program should cover the amount of time it takes most people who have lost their jobs to find another. On the other hand, the system should not be converted into a long-term program for dislocated workers.

NFIB understands the argument made by those who maintain that the Unemployment Insurance system does not adequately address the problems of the long-term unemployed and the dislocated worker. We recognize this is a significant societal problem. However, the Unemployment Insurance program was not designed to address this problem. It was designed to provide short-term wage replacement to unemployed workers as a bridge between jobs. A complex safety net of other federal programs is already in existence to protect those who find themselves out of a job for an extended period of time. The UI system was not designed to be a social welfare program, and it should not be turned into one.

We must not forget that the UI program is funded by a tax that employers pay on all of their employees. In effect this tax is a direct tax on jobs. Increasing this tax to pay for extended benefits will make it that much more likely that employers will not hire any additional workers, resulting in an increase in the unemployment rate.

Administrative Funds

NFIB shares your concern over the continued inability of Congress to appropriate enough administrative funds. Because Congress has not appropriated sufficient funds for administration, many states have had to create new surtaxes to fund the administration of their programs. The states, therefore, are using state taxes to do what FUTA taxes are supposed to do. In effect, employers are being taxed twice for the same government function.

NFIB also agrees that the 0.2% FUTA surtax should be eliminated. The surtax has repaid the debt it was specifically designed to repay. In fact it has overpaid the debt by almost $5 billion. The surtax has served its purpose. It is not needed to bolster either the Extended Unemployment Compensation Account (EUCA) or the Federal Unemployment Account (FUA). Those funds are flush.

NFIB is concerned, however, that the ceilings for the EUCA and FUA funds have been raised in recent years as the influx of revenues has come close to reaching the ceiling level. In 1987 the ceiling for the Extended Unemployment Compensation Account was tripled and the Federal Unemployment Account ceiling was increased five-fold. We expect that as the federal accounts continue to grow, the ceilings will be raised again.

Raising these ceilings is akin to moving back the ballpark fence in order to deter home runs. What is the point of having these ceilings if we raise them every time we approach them? The Employment Security Administration Account is full, the Extended Unemployment Compensation Account had over $5.8 billion on October 31 of last year, and the Federal Unemployment Account had $1.25 billion on October 31 of last year. It is estimated that the EUCA will reach its ceiling of $7.4 billion this year. The overflow from EUCA will go into the FUA, an account which the Department of Labor estimates will exceed $12.5 billion by 1994 -- even if Congress allows the 0.2 percent surcharge to expire.

Comments on H.R. 1367, The Unemployment Insurance Reform Act of 1991

NFIB opposes increasing the wage base to pay for the new federal extended benefit program. NFIB members have historically opposed increasing taxable wage bases because they have traditionally been tied to increases in taxes. Last year, Senator Moynihan broke with tradition by introducing legislation that would increase the FICA taxable wage base and coupled the increase with a decrease in the tax rate. The net effect of the Moynihan legislation was that it resulted in a tax cut for all working taxpayers. NFIB supports Senator Moynihan's efforts.

H.R. 1367, however, is not a tax cut for many working Americans. In fact, most employers will experience a tax increase because the wage base is raised immediately but the tax cut is delayed. In 1992, employers will have to pay more FUTA tax on every worker earning more than $7,467. In that year, an employer hiring a worker for $18,000 will have to pay 241% more FUTA tax under H.R. 1367 than that employer must pay under current law. This legislation does not really address the regressive nature of the FUTA tax until 1994-5.

Although H.R. 1367 eventually addresses the question of the regressive nature of FUTA taxes, the regressivity of the tax is really a secondary issue. The primary issue is whether or not this country really needs to raise taxes in order to spend $24 billion more on unemployment insurance benefits. As mentioned above, NFIB believes the current system adequately serves those the system was designed to serve -- workers in between jobs. It makes little sense to increase a tax that is a direct tax on jobs to pay for increased unemployment benefits. If, instead of paying $27 billion in taxes for expanded benefits, employers could use that money to hire extra workers, they could afford to hire 230,000 workers for five years at $20,000 per year. NFIB strongly believes that employment taxes should be kept as low as possible to avoid discouraging employers from hiring new workers.

The effect of H.R. 1367 is not limited to the federal portion of the unemployment insurance system. H.R. 1367 also seriously undermines the states' ability to determine who is eligible to receive benefits and who is not. Historically, the states have been almost exclusively in charge of determining eligibility and paying unemployment benefits. Limiting the ability of states to determine who is ineligible for benefits will greatly increase the cost of state programs, resulting in increased state borrowing from the federal trust funds or higher state unemployment taxes. The governmental entity determining eligibility should be the same governmental entity paying benefits. The incentive is too great for the federal government to expand benefits if the state governments then pick up the tab.

Conclusion

The current unemployment system provides 26 weeks of benefits to individuals who are out of work and between jobs. In addition, the current system provides an extra 13 weeks of benefits to workers who are out of work and happen to be living in states in which unemployment is high. The current system was not designed to provide for, and cannot afford to provide for, individuals who are unemployed for very long periods. The federal government already has an intricate safety net of programs designed to help those whose income has dropped below a certain level. After current unemployment benefits end, workers are not left out in the cold. They may be eligible for benefits from AFDC, Medicaid, Food Stamps, WIC, the school lunch program, and so on. The unemployment insurance system was not designed to be a worker welfare program, and it can only be converted into such a program at great cost to our national economy.

In the midst of a recession and gradually increasing unemployment, the Unemployment Insurance Reform Act of 1991 increases the cost of hiring workers. The last thing Congress should do in the midst of an economic downturn is increase a tax on jobs. Congress should be encouraging employers to hire more employees, not discouraging them.

Acting Chairman DOWNEY. Mr. Levin.

Mr. LEVIN. Thank you, thank you very much for all of your testimony. Mr. Gribbin, you say in the conclusion of your testimony that the current system provides an extra 13 weeks of benefits to workers who are out of work and happen to be living in States in which unemployment is high. One of the problems of the present system is it doesn't provide 13 weeks in addition to the 26 unless your unemployment reaches close to 10 percent, as is true in Michigan now.

What is the justice of telling a worker in a State that has 6 percent unemployment that after 26 weeks, you've got to go to the welfare office.

Mr. GRIBBIN. What is the——

Mr. LEVIN. Forget about the word justice. What is the efficacy of it?

Mr. GRIBBIN. The way the current system was designed, the way the Congress designed the current system, you have triggers in place. And as a matter of public policy, they set those triggers at——

Mr. LEVIN. Let's talk about the wisdom of the trigger. I mean I don't think it is worked out the way most people expected. I don't think anybody in this room, the staff or the members, think we can explain the trigger mechanism.

Acting Chairman DOWNEY. I don't think I can explain it.

Mr. LEVIN. I won't ask you to explain it.

Mr. GRIBBIN. Thank you.

Mr. LEVIN. But, I mean, how do you tell a worker in Michigan, now you trigger on, but in Indiana or some other State where it is 8 percent, you are out in the cold.

Mr. GRIBBIN. You are not necessarily out in the cold. Already you have received 6 months of benefits.

Mr. LEVIN. But they can't find a job. And it is asserted in the employment service can't help them anymore. So tell me what the sense of that is.

Mr. GRIBBIN. One of the problems, a recognizable problem we have with the current system is that, unlike England and some European countries, we don't have extremely long-term benefit programs that cover workers who are out of work for a long period. We have drawn the line now at 26 weeks.

Mr. LEVIN. The 26 plus 13. But the 13 is a mirage. I am asking, what is the public policy to make it a mirage for most of the people who are laid off beyond 26 weeks?

Tell me what the public policy is.

Mr. GRIBBIN. The public policy of drawing that line is to provide a comprehensive social welfare program for unemployed workers without creating such a high tax burden on the employer that you end up increasing unemployment in an effort to help those who are unemployed.

So you draw a line at 26 weeks, and we can debate whether 26 weeks is a good point at which to draw a line or whether there should be 13 and 26 weeks of extended benefits. But at some point there will be a line and there will be workers not covered beyond that line.

Mr. **Levin**. You are saying then the money should come out of general Treasury. But should we tell the worker after 26 weeks, you go to the welfare office because there the moneys come out of general funds?

Is that really a good social policy?

Mr. **Gribbin**. At some point you are going to have to tell them that. Whether it is 26 weeks, 39 weeks, 52 weeks, at some point if a worker no longer has a job and has exhausted his unemployment benefits, he will have to kick off of the unemployment insurance on to something else.

We seem to think the current balance between taxing employers to pay for the benefits and providing protection to the unemployed is struck at a good level with the 26 weeks of benefits.

Mr. **Levin**. I just suggest, if you have some time, that you go to an unemployment compensation office and talk to the people who are waiting. Especially, go now to Michigan. If you have a chance in the next few weeks, give me a call and I would like for you to come and talk to the people who now are triggered on—to EB, and ask them what their thought was about going to the unemployment compensation office or to the welfare office.

I think you are going to find—I think you are going to find from a variety of people, from a variety of walks of life, when you say they should go to the welfare office, that that is sound public policy, when they have been working and feel they have worked for their benefits, I think you are going to be somewhat surprised.

I would like you to give the answer, not me, and hear the response. I mean that seriously.

Acting Chairman **Downey**. Maybe we can have Mr. Gribbin go with Mr. Jones, make it one big field trip.

Mr. **Levin**. I knew you were going to say that as soon as you smiled at me. Maybe we will do that. We will set up a field hearing and you can do that. And I hope one of my other colleagues might talk to you about the employment service.

You heard the testimony what has happened to the employment services throughout this country. I would think that the federation especially would be worried about what has been happening, the decimation of employment service personnel and opportunities.

As I referred to yesterday, one office I was at in Michigan, you have two people working with 500 a week. And the truth of the matter is, they are not able to provide any job placement. And our creed is—and it is the right creed—get people back to work. But our unemployment service is now too handcuffed to really do that. And I hope you will get into that and cry out.

And also on the administrative funding lobby, all of us for an added funding supplemental.

Mr. **Gribbin**. I would be glad to.

Mr. **Levin**. Thank you.

Acting Chairman **Downey**. Mr. Grandy.

Mr. **Grandy**. Thank you, Mr. Chairman.

Mr. Gribbin, I hope I didn't hear you say that you are supportive of an administrative entitlement program. Did you say that? Is the NFIB in favor of the provision in the Downey bill that would make an appropriated entitlement for the administrative budgets?

Mr. GRIBBIN. I was not referring directly to the provision in the Downey bill. I was referring to the fact that he has addressed the problem.

Mr. GRANDY. Absolutely. But for that matter, so has Congress in the supplemental appropriation. The reason I ask that question, because your colleagues at the witness table are supportive of that, and my concern is that as well-intentioned as an entitlement sounds it would nonetheless create a precedent for setting up an administrative entitlement in all of our delivery systems that are now currently subject to the appropriation process—HCFA, Social Security Administration, Federal Aviation Administration. My concern is that if you allow unfettered growth through an entitlement process, bureaucrats will find creative ways to spend that money and siphon off benefits that should be going to the people that paid in.

That is my single greatest concern with the legislation, with that portion of the legislation. And although we have, I think, been behind the dime, to some extent, with getting the administration funds to those States that paid into them, to some extent the administration has relented on that point. I am concerned about the precedent that this sets.

The example I would cite is that you do have an entitlement, to some extent, to child welfare services, and we predict that those costs will grow from $1.9 billion in 1991 to $4.2 billion in 1995.

If administrative costs go higher, there will be an entitlement rise to meet the demand and overtime. Then we must be prepared to raise more taxes, and I didn't hear anybody at the table lead with that argument. My concern is this precedent, that is dangerous enough for the UI fund, but also I think it paves the way for a green light to do this for most of our administrative budgets that are currently crowding out expenditures for actual services.

I invite anybody to comment on that, but Mr. Gribbin, why don't you go first?

Mr. GRIBBIN. We share the chairman's concerns about the way that the current system needs to be changed to make sure the administrative funds flow back to the States and also I share your concern about the growth we have seen in other entitlement programs. I was addressing in my comments that I was pleased that the chairman had pointed to the problem, which has been a long-term, nagging problem.

Mr. KLEPNER. I would like to point out that rather than create a precedent the provision in the bill would simply conform to the same type of programmatic requirements we now see in other State-administered programs.

For example, AFDC, food stamps, and Medicaid all have entitlement funding for the administration of those programs. So what we seek in this legislation, and what this legislation provides, is to put the unemployment compensation system on the same footing as the other programs—as opposed to creating a new precedent that is not currently in existence.

Mr. GRANDY. My argument is that I think entitlement funding creates a growth spiral that we are hard-pressed to contain once it gets started.

Mr. **Levin**. Will the gentleman yield, just briefly? I think that is an important question. We have asked that—the answer is that the notion—maybe "entitlement" is the wrong word. To shift to the States everything they ask for isn't the way it would work. There are standards that would be established here, including work load evaluations, et cetera.

So it isn't as if there is just a shovel here and every time the State says it needs the money it gets it. So I think the subcommittee ought to look at what is meant by this provision. There are some standards to prevent abuse.

Mr. **Grandy**. If I could just reclaim my time, I am operating from the breakdown of the bill that was provided for us. We are looking at a base operating grant, appropriated entitlement to the States for base operating costs for 2 million average weeks of insured unemployment at $2.16 billion for fiscal year 1992. That is the appropriated entitlement in the bill, is it not?

And if these operating costs go up, inflation goes up, the entitlement goes up, too. I am just wondering how we contain costs with this precedent. I will concede that members on our side of the aisle were embarrassed by the administration's reluctance to come forth with the administrative cost that States rightly deserve.

My concern is that this financing reform, I think, will create a dangerous precedent, and begin to siphon off funds that should be going to beneficiaries. That is my only point here.

Mr. Gray, maybe I can just ask you a question because you made some compelling testimony about your status as a nonprofessional employee for a school. Since 1983 when the act was changed and you could no longer file for benefits during the 3 months that you are not working, what have you or your colleagues done to supplement your income?

Mr. **Gray**. Nothing, sir.

Mr. **Grandy**. Do you not work during those 3 months? Is it too hard to find a job?

Mr. **Gray**. Among the people I represent are, as I said before, cafeteria workers, teachers aides, what-have-you. I would have to say at least 70 percent of them probably file for food stamps or whatever assistance they can get.

Mr. **Grandy**. So they use that 3 months——

Mr. **Gray**. Right. That is correct.

Mr. **Grandy**. And have to access things like food stamps and public assistance programs.

Mr. **Gray**. That is correct.

Mr. **Grandy**. How many people are affected by this?

Mr. **Gray**. I represent at this particular time 897 employees.

Mr. **Grandy**. How about the national union? Isn't there a national union that you———

Mr. **Gray**. Speaking of the national, we represent approximately 150,000.

Mr. **Grandy**. I see. And that is true nationwide, I would assume, that your members have problems finding employment in that 3 month window?

Mr. **Gray**. Correct. The options are very limited for nonprofessional employees compared to professionals.

Mr. Grandy. Nonprofessional employees are not, and correct me if I am wrong, anybody on the panel here, are not able to use EDWAA funds and worker relocation and assistance dollars under the Job Training Partnership Act, are they?

Mr. Gray. No, they are not.

Mr. Grandy. You are currently precluded from that because of the seasonal nature of your work?

Mr. Gray. That is correct.

Mr. Grandy. I am wondering if there might not be a failing in the system right there, that your particular category has not been addressed when we are looking for how you might search for a job.

Seasonal unemployment is a little different from somebody who is laid off from a plant or seen a job lost because of trade practices, wouldn't you agree?

Mr. Gray. That is right.

Mr. Grandy. Thank you, Mr. Chairman.

Acting Chairman Downey. Thank you, Mr. Grandy.

Let me just observe a couple of things. Mr. Gribbin, I thank you. I don't want to associate myself positively with your group's views, and I don't want you to bear that cross. The reality is, as Mr. Klepner mentioned, that in the cases of Medicaid and food stamps there are administrative cost controls through quality control requirements.

Unemployment compensation also has a quality control system set up by the Reagan administration. Also, the Inspector General from the Labor Department makes sure that the administrative costs aren't out of control.

I think the gentleman from Iowa makes an excellent point when he talks about his concern about cost control. We don't have a lot of money. And States historically have played games with administration. They have found lots of things to finance in the name of the administration, quite apart from the administration. The gentleman cites the case of child welfare, title IV-B of the Social Security Act. The reason we have such a problem with IV-B is that the term "administration" applies to some other things besides the administration.

It applies to case management and a whole variety of other activities that are not administrative in nature, but are essential to protect the welfare of the child. I am very much concerned that if we set up an entitlement, that it not go for the things the gentleman from Iowa is talking about because I don't want to see that happen either.

But I do not know how else to work this program that would pass through to the States to administer this program. I would listen to all the alternatives, but until I see a better one, we are going to proceed with this proposal.

So I want to thank all of the members of the panel. We are going to do our best. I would, with my friends from AFSCME and AFA, try to provide assistance to the workers who need this help. It is dramatically unfair that they have not received it.

I appreciate all of your testimony. Thank you very much.

The subcommittee is pleased to hear from Wayne Vroman, a senior research associate from the Urban Institute.

Wayne, we are all set to hear from you.

Your full statement, of course, will be entered into the record.

STATEMENT OF WAYNE VROMAN, PH.D., SENIOR RESEARCH ASSOCIATE, THE URBAN INSTITUTE

Mr. VROMAN. I want to thank you for the opportunity to be here. I speak for myself, not the Urban Institute or its sponsors.

The piece of legislation being considered here is important. It is innovative, it is forward looking.

I certainly hope the committee sees fit to report it out favorably and have it moved toward being enacted.

There are several different components of this piece of legislation. In my remarks today, I won't try to touch on each one of them.

I will restrict my comments to three areas. One, the new Federal supplemental compensation program being proposed.

Second, there are several provisions in this bill that would change disqualification provisions in the States as they currently are administered.

Third, the proposal has in it ideas about rewarding States for prudent fiscal behavior, that if they develop large unemployment insurance trust funds, they get extra interest payments. That should encourage the States to develop and maintain larger funds, placing them in subsequent recessions in a good position to pay benefits without having to, (*a*) borrow from the Treasury, (*b*) cut benefits while people are still unemployed, or, (*c*) raise taxes on employers when their profits are already down due to the recession.

Therefore, I think the bill improves the performance of unemployment insurance in three important areas.

One, maintaining the income of families whose members experience unemployment; two, stabilizing the overall economy due to the automatic increases in benefit payments that would take place in recession, providing larger increases than under the current programs.

Third, this bill would address the, what I believe is the most fundamental problem in unemployment insurance right now, the problem of chronic underfunding.

To keep my remarks of limited length, let me jump quickly through each of these three areas. First, the new FSC program. I would make five brief points about it.

First of all, the length of the FSC entitlement would vary depending upon the unemployment rate. This would help the UI program to be a better countercyclical vehicle than the EB program, even if the EB were to be activated in most States in recession.

Second, the bill retains the 120 percent requirement. You compare unemployment to what it was 1 and 2 years ago, and only activate the program when your unemployment rates are at least 20 percent higher than in that previous period.

Third, the program uses what I think is the appropriate set of triggers. That is total unemployment rates that reflect unemployment of all members of the State economy and not insured unemployment rates as are currently used by the extended benefits program. In some States insured unemployment rates will never reach the trigger thresholds in the current UI legislation.

The examples I like to note are Texas and Florida, since there are so many Congressmen from those States. Both of those States compensate fewer than 20 percent of their unemployed. Even if you take out of the total measures, the number of unemployed workers who are new entrants into the work force, reentrants and job leavers, and focus on job losers, those States typically compensate fewer than half their job losers.

There are several States in that situation nowadays, more typically, States in the South and Rocky Mountain areas. If you want unemployment insurance to provide long-term benefits to the unemployed as a matter of equity to workers in those regions, if you don't use TURs to activate your longer-term benefits, you will never provide long-term benefits under the program like the current extended benefit program.

Acting Chairman DOWNEY. Dr. Vroman, do you have time? Do you have any other business for an hour or so from now?

Mr. VROMAN. I have a lunch which I can arrive at late.

Acting Chairman DOWNEY. It would be my intention, and my guess and Mr. Levin's as well, that we would like to ask you extended questions about your testimony and about other testimony.

If you would proceed for another 5 minutes, I will recess the hearing for 10 or 15 minutes and we will come back.

Mr. Levin and I have 20 minutes worth of questions or more.

Mr. VROMAN. On FSC, two final points. One, I think it is important that there be a national trigger which is in this bill.

Unemployment at the national level is a major indicator of the performance of our economy. We should have a program to provide longer-term benefits when we are in recession and the duration of unemployment spells is rising. People find it much more difficult to become reemployed during recessions. By having a national trigger, you tie the payments and the countercyclical stimulus to the economy to a national indicator. It is true that individual States do depart somewhat from the national average. However, when our economy goes into a recession, unemployment rates go up in all regions. It is a question of how much the rise. By having an extended benefit trigger, you are providing the countercyclical stimulus at the right time.

Finally, full Federal funding of the extended benefits or the new FSC program is a logical and I think a cogent location for the funding responsibility. Since 1946, we have legislation in the United States where the Federal Government assumes responsibility for achieving and maintaining full employment in the economy. The responsibility for doing that to be discharged through active use of monetary and fiscal policy. If the Feds fall down in discharging this responsibility, under this bill the responsibility for paying the benefits for workers who are not the cause for that falling away from full employment, would have the Federal Government assume the responsibility for paying their benefits. I think in the extended benefit area, long-term benefit area, that is an appropriate coincidence of responsible funding.

Much more briefly, there are several provisions in this bill that speak to eligibility for unemployed workers. That is an area where we don't know as much as we should.

Clearly, many people perceive they are not eligible under the current system, and if the eligibility rules were to change, particularly this bill speaks to questions about how job quitters should be treated and how they should be treated after fairly extensive periods of unemployment; namely, 10 weeks. Legislation which moves in the direction of making long-term unemployed more eligible to collect benefits, and in this case job quitters after 10 weeks, I think is to be encouraged.

Why don't I go on to the final area, which is the rewards for interest rate payments to States that maintain large trust fund balances. Under this bill if you achieve a reserve ratio multiple of 0.5, and I assume people can read the statement for the definition of that technical and rather esoteric term——

Acting Chairman **DOWNEY**. I want you to come back at some point. That is the high-cost multiple. Is that what it is called?

I will ask you this in the questions. I want you to go through that. Some States have testified that they think it is inappropriate. I would like your opinion on that.

Mr. **VROMAN**. Sure.

If you achieve a multiple of 0.5, then you, as a consequence, get 5 percent extra interest income on your trust fund accumulations. If you achieve a multiple of 1, you get a 10-percent supplemental interest payment, and a multiple of 1.5, you get a 15-percent supplemental. This encourages States to raise their fund balances.

It provides a rationale for guarding against raids on the trust fund. There is an argument advanced that if you build a big trust fund, all that does is provide do-gooders with an opportunity to raid the trust fund by raising benefits.

Well, if that were to occur under the provisions of this bill, the extra interest income would not be paid because benefit liberalizations that draw down the fund balance and the State would no longer have the interest rewards as in this bill.

I will say some things about Massachusetts, because I had the opportunity to testify before this committee almost exactly 1 year ago, conducting simulations that showed if Massachusetts maintained full employment until the end of the decade of the 1990s, they would go broke.

Well, unlike the simulations of last year, they have upped the schedule considerably. It is possible that Massachusetts will be borrowing from the Treasury as early as next month. They have already received authorization to borrow $40 million in April and an additional $10 million in May.

If their claims load continues to rise at the rate it has been over the last 5 months, those already approved authorizations may not be sufficient to cover all of their needs. Building the trust fund ahead of the recession allows the State to go through the recession without having to borrow, raise taxes or cut benefits to their workers. Building a trust fund balance would be important for the UI program.

I think I will stop my remarks right there.

[The prepared statement follows:]

STATEMENT BY WAYNE VROMAN,* SENIOR RESEARCH ASSOCIATE THE URBAN INSTITUTE

I would like to thank the Committee on Ways and Means for the opportunity to comment on H.R. 1367, The Unemployment Insurance Reform Act of 1991. Two primary objectives of Unemployment Insurance (UI) are to stabilize a family's income when a member experiences unemployment and to act as an automatic stabilizer of the macro economy when there is a recession. UI accomplishes these purposes through the payment of cash benefits that provide for partial replacement of lost wages to eligible unemployed workers. H.R. 1367 has a number of features that, if enacted, will strengthen the functioning of UI in achieving these two program objectives.

There are several innovative aspects to the proposed bill. This written statement will focus on three areas: i) Title I - the creation of a permanent Federal Supplemental Compensation program, ii) Title II - Modifications to Eligibility Provisions in the regular State UI programs, and iii) Title IV - Financing Provisions that reward states with large trust fund balances. In each of these areas my remarks will be abbreviated and will not attempt to address all provisions of the proposed legislation.

A New Federal Supplemental Compensation Program

Occurrences of low income and poverty among the unemployed are most pronounced among the long term unemployed. Thus the need for long term benefits beyond the 26 weeks provided by regular state UI programs is a continuing need.

The inadequacy of the present Federal-State Extended-Benefits (EB) program in assisting the long term unemployed is becoming more widely recognized. The current trigger threshold (an insured unemployment rate (IUR) that averages 5 percent or more for thirteen weeks and which exceeds 120 percent of the average for the corresponding 13 weeks in the previous two years) is so high that few states activate EB even in the midst of a serious recession. This situation is the result of two developments dating from the early 1980s; modifications of the triggering mechanism that raised the trigger thresholds[1] and an unexpected decline in the proportion of the unemployed who claim benefits. The change in the trigger thresholds was a deliberate policy change, while the decline in claims activity was an unanticipated development which still is not well understood.

H.R. 1367 would replace the present EB program which uses triggers based on the IUR with a permanent Federal Supplemental Compensation (FSC) program which would use total unemployment rates (TURs) to activate long-term benefits. An advantage of using triggers based on TURs is the potential to activate long term benefits in states like Florida and Texas where the regular program compensates such low proportions of the unemployed (fewer than 20 percent in most months). In Texas the TUR reached 8.9 percent in 1986 during the downturn in its energy-related sectors but the IUR for the same year was only 2.6 percent. Under the current EB program Texas would need a TUR of about 15 percent to reach the 5 percent IUR that would activate EB.

The Federal Supplemental Compensation (FSC) program proposed in H.R. 1367 has several other features worth noting.

(1) The potential length of the FSC benefit entitlement varies with the level of unemployment. We know that securing reemployment becomes increasingly difficult as the unemployment rate increases. For both family income maintenance and automatic stabilization purposes the variable maximum duration of FSC is logical. It automatically pays out more benefits in periods of greater need when reemployment is also more difficult.

(2) Having a 120 percent requirement that must be satisfied (as in EB) helps guard against misallocating FSC benefits to states with chronic problems of high unemployment.

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[1] Three changes were instituted. The basic trigger rate for the IUR was raised from 4 percent to 5 percent. EB recipients were removed from state EB trigger calculations. The national EB trigger was eliminated.

*The views expressed in this statement are those of the author and do not necessarily represent the views of The Urban Institute or its sponsors.

(3) Full federal funding of FSC is logical. Under the Employment Act of 1946 the federal government has the responsibility for ensuring full employment in the economy. It is to achieve and maintain full employment through active monetary and fiscal policy. The proposed federal financing of FSC places fiscal responsibility for the program at the same level of government. In the past, several states have had financing problems in their UI programs, and financing the state share of EB payments (50 percent) has contributed to these problems. Under the proposed new FSC program the states would not be undertaking new financial obligations in providing benefits to the long term unemployed. State trust funds would be devoted just to the financing of regular UI benefits.

(4) The use of TURs to activate FSC is appropriate. Since the decline in UI claims activity of the early 1980s IURs have become less reliable as indicators of labor market conditions in the states. The usefulness of the IUR as an indicator of labor market slack is especially limited in most states located in the South and in the Rocky Mountain areas of the U.S..

There are technical questions and considerations that can be raised regarding the specific TUR thresholds proposed in H.R. 1367. To be most useful the monthly estimates of the TURs should be subject to a minimum of "noise." The use of a 6 percent TUR as the lowest trigger threshold and a three month computation period both seem reasonable, but an analysis of past monthly data on TURs by state could be instructive. There are technical questions about false positive signals that can be raised, i.e., a three month average TUR being above 6 percent and also above the 120 percent requirement but then the next three month average being below 6 percent. There is also a question of seasonality of TURs (presumably addressed by the 120 percent requirement). Since the state estimates of TURs are currently reported one month later than the national TUR estimate, there is an issue about this added delay in activating the new FSC program. Finally, the initial monthly estimate of the TUR for each state is then revised one month later. How large are the revisions, particularly in smaller states where the monthly samples are small? The professional staff at the Bureau of Labor Statistics are the most qualified to comment on the technical aspects of using TUR triggers for the proposed FSC program.

Modifications to Eligibility Provisions

At present the UI programs in several states compensate a very low percentage of the unemployed. During the three year period 1987-1989 there were eleven states where insured unemployment (the number of active UI claimants) was less than 50 percent of the number of unemployed job losers. In ten other states this percentage fell between 50 and 60 percent.[2] A comparison of the number of claimants with job loser unemployment is logical because job losers are the group for which UI was originally created. Most have lost jobs through no fault of their own as a consequence of employer actions.

The labor force is changing in ways that will probably reduce the importance of job loser unemployment relative to other reasons for unemployment in future years. Besides job losers, the three other reason-for-unemployment categories are job leavers, reentrants into the labor force and new entrants into the labor force. The first three categories (job losers, job leavers and reentrants) are referred to as the experienced unemployed. In the full employment year 1989 only about half of the experienced unemployed were job losers. It seems likely that in the future job leavers and reentrants will become an even larger share of the experienced unemployed.

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[2] The eleven were New Hampshire, Indiana, South Dakota, Florida, West Virginia, Alabama, Kentucky, Louisiana, Oklahoma, Texas, Colorado, and New Mexico. The ten were Illinois, Ohio, South Dakota, South Carolina, Virginia, Mississippi, Arizona, Nevada, Utah, and Wyoming.

One reason to expect a future decline in the relative importance of job loser unemployment is suggested by data on reason-for-unemployment by industry among the experienced unemployed. In calendar year 1989 job losers made up about 70 percent of the experienced unemployed in industries with standard industrial classification (SIC) codes 10 - 49 (mining, construction, manufacturing and transportation) but only 40 percent among the unemployed in industries with SIC codes 50 - 89 (trade, finance and services). Since most recent employment growth has been concentrated in the latter industries, this provides one basis for expecting a decline in the relative importance in job loser unemployment. Workers in the latter industries are more likely to quit their jobs, but in most instances they remain active in the labor force by finding other jobs.

From recent survey data we know that job leavers and reentrants are not likely to apply for or collect UI benefits. In four special supplements to the monthly household labor force survey conducted between May 1989 and February 1990 the proportion of unemployed job leavers and reentrants who were UI applicants fell into the .10 to .15 range whereas the proportion among job losers was about .50.[3] In most states workers who quit jobs are disqualified for the duration of their spells of unemployment. Indefinite disqualification provisions have become the norm in state UI programs over the past fifteen years. Furthermore, after they become reemployed should such workers then be laid off, they would have to have been employed for a minimum number of weeks on the new job (a requalification period) in order to be eligible for UI benefits.

H.R. 1367 addresses certain features of current UI laws that contribute to low proportions of workers in benefit status in many states. Several provisions in Title II of the bill fall into an area commonly termed nonmonetary disqualifications. Three key aspects of the proposed bill would: i) prohibit states from canceling a worker's rights to benefits except for certain types of discharge for "cause,"[4] ii) limiting the disqualification for quitting for a maximum fixed length period of ten weeks, and iii) restricting the disqualification for voluntary leaving to apply only to the reason for leaving the most recent job, not earlier jobs. The net effect of these changes would be to entitle more unemployed workers and to have proportionately larger entitling effects for job leavers, workers in states with more stringent nonmonetary disqualifications and workers who change jobs more often.

Objections to the compensation of job leavers might be raised, but note that they would only start to collect benefits after serving a fixed length disqualification of ten weeks. Very few persons will quit a job and then deliberately wait ten weeks to start collecting UI benefits. Also the stringent requalification requirements now present in Florida and certain other states would be eliminated. If someone has been laid off, it is unfair to penalize them for quitting a previous job. The previous wage credits provide evidence of prior attachment to the labor force and a basis for determining the weekly benefit amount. If the employer who initiated the layoff from the most recent job was charged for the benefit payments caused by the layoff, this would promote experience rating and could reduce the volume of such layoffs.

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[3] These survey data are summarized in an Urban Institute report to the Ford Foundation which has also been published by the U.S. Department of Labor (DOL). The DOL citation is: Wayne Vroman, "The Decline in Unemployment Insurance Claims Activity in the 1980s," UI Occasional Paper 91-2, (Washington, D.C.: U.S. Department of Labor, 1991). Tables 3A and 3B of that report show estimated application rates and recipiency rates respectively with detail by age, gender, reason for unemployment, and unemployment duration.

[4] Three exceptional situations are discharge from work for misconduct, fraudulently claiming UI benefits and receipt of disqualifying income such as retirement benefits.

One fact about the proposed changes in Title II is that we do not have much of an idea of their quantitative importance in raising the ratio of insured unemployment to total unemployment. Nevertheless, the direction of the effect of the proposed changes is clear, to increase the proportion of the unemployed collecting UI benefits. The potential importance of these changes is difficult to assess because there has been little direct research on the question of nonmonetary disqualifications.

We do know from recent survey data that most who do not apply for UI benefits believe they are not eligible. We also know that very few nonapplicants think that it is too much hassle to apply, that UI is too much like charity, and few state that they do not know about the program.[5] These considerations could mean that many more would apply for UI if the nonmonetary disqualification provisions of state laws were modified.

Uncertainty about the potential effects of the provisions covered in Title II of H.R. 1367 is also related to the phenomenon of "counter denials." Some workers who do not apply for UI benefits may feel the program is not hospitable to claimants and therefore it is a waste of time to apply. Anticipating an agency inclination to deny applicants, they do not attempt to press claims for benefits even though they may think they are eligible. On this point recent survey data suggest most nonapplicants think they are not eligible, and the most common reasons for ineligibility are insufficient previous work and having quit their last job.[6] Knowing of the quit disqualification, an individual who quits for what s/he feels to be good cause may not apply for benefits. The survey findings suggest that changing the quit disqualification from an indefinite to a fixed length disqualification could raise application rates for UI benefits.

It should be noted that H.R. 1367 does not address many of the monetary qualifying requirements in UI programs. The amount of earnings needed to be deemed monetarily eligible varies considerably from one state to the next. Workers must achieve threshold levels of earnings to become eligible for benefits. Typically these requirements refer to earnings in the earliest four of the last five completed quarters prior to filing the claim, and the dollar amounts are stated both in terms of total earnings over the four quarters and in the quarter with highest earnings. Two comments about monetary qualifying requirements should be made. First, the requirements are most difficult to satisfy if a worker is paid a low hourly rate, ie. minimum wage workers. Second, the use of an alternative base period which recognizes earnings from the most recent quarter could help more workers achieve monetary eligibility. Thus while H.R. 1367 makes strides in increasing worker eligibility for benefits, other eligibility-enhancing changes can also be suggested.

Finally, it should be reemphasized that while the changes in disqualification penalties proposed in H.R. 1367 will clearly enhance worker eligibility for benefits, there is uncertainty as to how many workers will be affected and how many will take advantage of their enhanced eligibility. At the present time we simply do not have the information to assess the quantitative importance of the proposed changes. As noted above the problem is made more difficult by the phenomena of "counter denials," i.e., workers not exercising their rights and claiming benefits. We need to have better information on nonfilers and their reasons for not claiming benefits. The information from the recent supplements to the monthly household survey were helpful in this area, but they left many unanswered questions.

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[5] See Table 4 in the report cited in footnote 3.

[6] See Table 5 in the report cited in footnote 3.

Financial Incentives to Enhance Trust Fund Balances

One of the most innovative aspects of H.R. 1367 is the provision to confer financial rewards on state UI programs that accumulate substantial trust fund balances. Interest income is raised by 5, 10, and 15 percent when end-of-quarter fund balances exceed reserve ratio multiples of .5, 1.0 and 1.5 respectively.[7] By providing financial rewards for prudent fiscal behavior, states will be encouraged to accumulate larger fund balances than otherwise so that they will be able to pay benefits in a recession with little chance of insolvency.

In the past, states with inadequate fund balances have had to borrow substantial amounts during recessions. Starting in the early 1980s when loans began to carry interest charges, the states demonstrated a willingness to enact solvency measures restricting benefits and raising taxes in the midst of recession. These changes enabled the states to repay loans more quickly, but the timing of such measures was inappropriate for UI to function effectively as an automatic stabilizer of the economy. It is not appropriate for benefits to be cut and taxes to be raised when workers and employers are experiencing the economic hardships of recession.

A brief review of the situation in Massachusetts may be instructive in this regard. The state's economy has deteriorated sharply in the past eighteen months. The annual average unemployment rates (TURs) for 1988, 1989 and 1990 were 3.3, 4.0, and 6.0 percent respectively. In the last two months for which we have data, December 1990 and January 1991, the unadjusted TUR rose from 7.0 to 9.0 percent. Another indication of the deterioration in Massachusetts is provided by data on the UI trust fund balance at the end of the past three years, a decline from $1133 million at the end of 1988 to $910 million at the end of 1989 to $382 million at the end of last year. The Massachusetts UI program may have to borrow in the near future. They have been authorized to borrow $40 million in April and $10 million in May of this year. Although the state has seen its unemployment rate nearly triple since early 1988, it is useful to note that the December 1988 fund balance of $1133 million represented a reserve ratio multiple of only .57. Thus, from this actuarial measure it is not surprising that the state may be in need of UI loans in the very near future.

The current legislative session in Massachusetts is considering several bills that address the UI financing situation. There was a bill in 1990 session that would have raised taxes and reduced benefits, but the new governor has made statements to the effect that there will be no new UI taxes. Experience rating has already led to higher taxes this year with all employers paying on a tax schedule three levels higher than last year's schedule. The new administration has not introduced its UI legislative package, but for any bill to secure passage it is likely to include both benefit reductions and tax increases. Probable benefit reductions include both a reduction in the maximum duration of benefits from the current 30 weeks and some form of restriction on dependents' benefits. The form that the tax increase may take is more difficult to anticipate. Both employers and workers in Massachusetts will be upset (and with good reason) by the timing of these changes.

The preceding recitation of the situation in Massachusetts helps illustrate why building larger trust fund balances is desirable. We do not know with certainty how states would react to the prospect of added interest income but some informed speculation can be offered. (1) The states have demonstrated a strong sensitivity (aversion) to interest charges on loans taken after March 1982. The rate of repaying interest-bearing loans was high in all years including 1983 when national unemployment was still above 9.5 percent.[8] This earlier experience may mean that many states would respond positively to interest income rewards as well. (2) If there are rewards to trust fund accumulations that take the form of extra interest earnings, this provides a good reason for employers to pay UI taxes now and experience lower taxes later as a larger share future trust fund receipts will arise from interest earnings. Particularly in a financial environment where interest rates are high (as they generally have been since the early 1980s), the supplemental interest income could be of importance to a state. (3) One argument frequently heard against building substantial trust funds is that large balances provide tempting targets for raids in the form of benefit liberalizations. Under H.R. 1367, if such raids occur, the state will realize smaller interest income rewards. This would be an argument to be used against benefit liberalizations in non-recessionary periods when trust funds have been built-up.

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[7] The reserve ratio multiple is an actuarial calculation based on two ratios. The denominator is the highest 12 month payout rate in the history of the program (benefit payments as a percent of covered payrolls in the high cost period). Its numerator is the current end-of-period fund balance expressed as a percent of current payrolls. A suggested actuarial standard for fund adequacy is to have a reserve ratio multiple of 1.5 implying 18 months of benefits in the trust fund.

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[8] The contrast between the repayment patterns on interest-free loans and interest-bearing loans is reviewed in Chapter 1 of Wayne Vroman, Unemployment Insurance Trust Fund Adequacy in the 1990s, (Kalamazoo, MI: W.E. Upjohn Institute, 1990). Tables 1.5 and 1.6 provide state details for the 1980s. The general pattern was for states to repay interest-bearing loans as quickly as possible, but to repay interest-free loans very slowly.

Acting Chairman Downey. I am going to recess the subcommittee until the vote or votes.

Then I shall return. I have a number of questions, as does Mr. Levin.

[Recess.]

Acting Chairman Downey. Mr. Vroman, yesterday a chamber of commerce witness, Mr. Adler, said you testified that 83 percent of the unemployed were either job quitters or did not have enough recent employment to qualify for unemployment compensation.

With the percentage of unemployed who are job losers now exceeding 50 percent, I found that figure hard to believe.

Is the 83 percent figure correct, or did the chamber of commerce misinterpret your testimony?

Mr. Vroman. I think more of the latter, Congressman.

The testimony that I gave previously is based on a report that the Labor Department published. Originally, we did the work at the Urban Institute for the Ford Foundation.

It is based on special supplements to the Current Population Survey. Let me try to put the 83 percent number into some kind of context.

In this survey, roughly, one-third of the unemployed said they applied for unemployment benefits in their current spell of unemployment. The other two-thirds said they did not apply.

Of that two-thirds grouping, there was a followup question that asked why didn't you apply.

About one-half of the nonapplicants said they were not eligible. That is one-half of the two-thirds, or one-third of the total in that survey.

There then was a followup question. If you said you were ineligible, what reason were you ineligible?

The 83 percent number is the response to the question of why you were ineligible. The choices on that question were, I didn't work enough, I have not had any employment recently, I quit my last job, I was fired, and I don't know.

There were four or five possible reasons why you said you were ineligible. The two biggest reasons were I didn't work enough and I quit my last job. It was of those who self-reported they were ineligible.

I should say that this is self-reported or self-perceived eligibility. We don't know exactly how well people understand the program. If they, in fact, had sufficient earnings to meet the qualifying requirements, they might have said they were ineligible and not really be accurate in reporting their eligibility.

I think that is an important enough question that it bears following up in some form or another in the future.

I would hope the Labor Department would be able to find a way to do that.

Acting Chairman Downey. One of the debates that we have about unemployment, best expressed by my Republican colleagues, and the administration, is that if we extend benefits longer, that people would stay out of work longer.

Could you address that?

Are you familiar?

Mr. Vroman. A little. It has been an area of research where several economists have tried to make statements.

The way I interpret the evidence is there is a tendency when you are receiving benefits to prolong your spell of unemployment. The most persuasive evidence on that is when people get cut off at, say, week 26, the rate at which they go back to work is considerably higher than it is while they are in weeks 23, 24, 25, just before the end of eligibility.

The rate at which people go back to work depends heavily on how many jobs are available. The disincentive features have to be looked at where the jobs are or if there are jobs in the economy.

I think a more appropriate reading of the evidence is that if you are concerned about people prolonging their spells, then you don't want 39 weeks of unemployment benefits, or 52 weeks when the economy is close to full employment. That allows people in the system to stay on the benefit rolls for longer periods of time.

But if you have workers who have had a commitment, as indicated by a work history of, say, employment for 10 or 15 years of previous employment with their employer, if average unemployment is lasting for a long period of time, to expect them to go back and find particular work quickly, even within a 1-year period in several cases, is going to be very difficult.

I think it is appropriate to extend benefits in a recession, which is what the proposed legislation would do.

Acting Chairman **Downey.** I might add that this is a very simple and elegant explanation of a reality. If it is harder to find work, then it is more appropriate to extend benefits because people can't find jobs.

Mr. Vroman. People can't find jobs in some cases. Any social program, there is a distribution of human attitudes and human behavior.

You can find people who will rip off such as the stereotypical Cadillac welfare mothers.

But when you construct a program, you have to consider the entire population and not a few exceptional cases. You don't let the exceptions drive social policy.

I think the concern about prolonged durations in recessions is misplaced.

Acting Chairman **Downey.** Let me address a point made yesterday. It appears the Department of Labor misinterpreted the economic impact of H.R. 1367 by saying it would take $7.2 billion out of the economy and reduce employment. Since the bill spends about $3 billion more than it takes in over the next 2 years, this didn't make much sense to me.

Could you explain how this bill, which admittedly takes funds from employers and puts in it in the hands of unemployed workers during a recession, would reduce employment?

Frankly I think it is more likely to increase employment in the short run by stimulating the economy with additional consumer spending from the benefits of the FSC program. Let me ask you the counterpart. Has the Department of Labor forgotten the countercyclical role of unemployment insurance?

Mr. Vroman. I am reluctant to answer questions you pose to other people. Particularly since most of my funding comes from the

Labor Department, I don't want to be in a position of being seen as raising hell with them. Maybe we could break the question in two ways. Suppose the proposal where budget neutral, there were increases in employer taxes exactly matched by increased benefit payouts. Then I think you could find economic models that would say that would have a zero employment effect.

There would be as much disemployment from the extra employer taxes as from the extra demand arising from the worker benefits. With the numbers that you posed in your question, I cannot come up with a construction where there is a net injection of resources into the economy through the higher benefit payments, and that leading to a reduction in employment.

Acting Chairman **Downey**. One of the points Mr. Grandy made to one of the witnesses, which I think was an interesting point, about the way we have changed the tax from 0.8 percent to 0.3 but expanded the wage base, he asked several of the witnesses if this would be a curious incentive for employers to have lower wage workers because they would pay in fact lower rates, 0.3 as opposed to 0.8.

Do you understand that point? If you would address it. I didn't—I don't think the witnesses answered his question, but I thought it was an interesting query to pose.

Mr. **Vroman**. Let's see if we agree on some facts about this. Small employers are more likely to be low wage employers.

Acting Chairman **Downey**. Is that a fact?

Mr. **Vroman**. I think it is, yes. It is.

Acting Chairman **Downey**. It is. OK.

Mr. **Vroman**. Then you are going from a current system where the tax base for the Federal part is $7,000. It is more likely that more of your wages or all of your wages are going to be covered by the tax base in the Federal tax you keep the current $7,000 base. The effective tax rate is going to decline rapidly when you move to higher and higher wage employers.

Through your bill you reduce the tax rate on those low wage employers and you spread more of the burden up the distribution to higher wage employers because there is a larger tax base.

It certainly is true in your bill that higher wage employers are going to pay a higher effective tax for the administration of the program. I don't see how what you are proposing is going to be unduly burdensome on small employers.

Acting Chairman **Downey**. What about a potential burden to higher income employers who have, let's say, research engineering work where their employing work force might be better paid people?

Mr. **Vroman**. Let me not speak directly to your question but come at it indirectly. If you think about the compensation package employers provide to their workers, there is wages, pay for time not worked in the form of holiday, vacation, all those kinds of payments.

Then there are the insurance programs or what are called fringe benefits besides pay for time not worked. Unemployment insurance is the fifth most expensive fringe benefit. The employers are paying essentially 1 percent of payroll on UI, they are paying on average 2 percent for workers comp and paying even more for private pensions, Social Security and health insurance.

There are certain employers who would be inconvenienced by paying higher UI taxes. Within the larger scope of all of their employment costs, this is a pretty small cost increase.

Acting Chairman DOWNEY. How do you account for Texas and Florida having remarkably low rates of insured unemployed workers?

Mr. VROMAN. Rather than me offering speculation that I can't support, I think it is a question that the Labor Department and the Congress, should investigate more thoroughly than it has been to date. I think a lot of it has to do with the way the program is administered in those States.

I think it has to do with the fact that UI agencies in those States view themselves as much a vehicle for the employer community as the applicant community. I think more people in Texas who are unemployed should collect benefits. There should be new survey work to ask them questions about UI. For example, show workers what their work history is, indicate the eligibility criteria in their State, then ask them why when you became unemployed didn't you apply for UI?

That is not a good answer to your question, but I don't think we know. I have speculation, but it is just that: speculation.

Acting Chairman DOWNEY. Who pays that tax, Mr. Vroman? Is this a tax on employer or a tax on employees?

Mr. VROMAN. I think this year you tried to come forth with a very innovative bill. I might have even recommended that you taxed employees in your proposal for the following reason. The public finance literature speaks with almost complete unanimity that it doesn't matter which side of the market the payroll tax is levied on. It ultimately is borne by that factor of production. Borne by labor in this case. The most likely outcome in the vast majority of cases is that although employers are writing the checks to the UI agencies, in fact, the tax is reducing the nominal wages of the workers at their places of employment. Even though the employer is the vehicle of paying the tax, the burden of the tax resides much more on the workers. If employees were taxed in unemployment insurance, I think they would then feel they have more at stake in the system through their tax dollars flowing into it and they might be more aggressive about asserting their rights.

The best social science evidence we have on who pays for the UI tax under its current employer payroll tax form is that employees pay the tax.

Acting Chairman DOWNEY. I want to tell you, you get some argument from the employers.

Mr. VROMAN. When I go in front of groups and say the workers comp tax is paid by employees even though the employer writes the checks, people look at me like I am from Mars. I am reflecting what the economics profession, the public finance profession in economics believes and has research to support.

Acting Chairman DOWNEY. Could you explain that to me again?

Mr. VROMAN. Basically the levying of the tax does not change the productivity inherent in the employment relationship. If you tax an employer, in order for the job to not reduce company profits, you have to have some kind of a matching between the average productivity at that job and total compensation associated with the job.

If you raise the tax on the employer, you are not directly affecting the productivity of that job. Therefore, some other component in the compensation package has to give.

Acting Chairman **Downey**. I see. In your testimony about the imminent insolvency of the Massachusetts unemployment insurance program, you confirm what others are saying, that States are not building up reserves and in fact wind up doing the two worst things they could do during the recession—increasing taxes and lowering benefits. What do you expect Massachusetts to do this time?

Mr. **Vroman**. I checked into this a little. At the moment there are three bills in the Massachusetts Senate and 18 in the House that speak to unemployment insurance.

Let me give you a longer answer because certain people in Massachusetts expected that either in 1990 or 1989 the Congress, the national Congress would act and raise the taxable wage base for the Federal unemployment tax. There was a proposal in Massachusetts last year to raise the base to $8,000, to $9,000, to $10,000.

Then to compromise that—my understanding of the compromise which was reached had many employers on board as well as the usual worker community, they agreed not to index from that point forward. That bill would kick up the base $3,000 over the subsequent 3 years.

That bill was something that outgoing, the Dukakis administration, didn't really push forcefully in the last session. There was some coalition around that agreeing there would be some tax and some benefit changes last year.

My understanding is that the incoming governor made a nc new tax pledge before he really became apprised of this legislative history in Massachusetts.

Of the bills that have been introduced so far this year, none of them have the Governor's backing.

The kinds of changes that have been proposed in some of these bills are, one, to reduce dependents' benefits. Massachusetts is a generous State. It has the most generous dependents' benefits of any State in the country. It is likely dependents' benefits will be less generous after this legislation session. Massachusetts is one of two States where the regular program compensates up to 30 weeks rather than 26. I think it is likely that the 30 will be knocked back to 26 in the current session.

The usual coalition of forces that are needed to pass a bill at the State level, however, typically requires that tax increases and benefit reductions both to be included. It seems very likely that some months hence, I am not sure how long their session runs, something will be passed that will raise taxes and lower benefits. That is speculation from 500 miles away. I don't have the details.

Acting Chairman **Downey**. Let me thank you for indulging the subcommittee with your time and the delays that you have had to put up with with these votes.

I greatly appreciate it, as I do your excellent testimony. Thank you.

Mr. Vroman. A pleasure to be here.

Acting Chairman Downey. Thank you. The subcommittee stands adjourned.

[Whereupon, at 11:50 a.m., the hearing was adjourned.]

[Submissions for the record follow:]

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April 3, 1991

Mr. Robert J. Leonard
Chief Counsel, Committee on Ways and Means
U. S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Heinz:

Re: Federal Unemployment Tax Act (FUTA)

It is my understanding that a bill that would raise the taxable wage base under the FUTA to the same level as the social security taxable wage base has been introduced in the House by Representative Downey, Acting Chairman of the House Ways and Means Subcommittee on Human Resources.

Further review into the particulars of this bill indicate to me an increasing cost of doing business added to a current high cost for unemployment benefits.

From my business perspective, we need to reduce the cost rather than add to the cost of doing business, thereby preserving the competitive position of American made products in the world market. Locally it is becoming increasingly more difficult to encourage people to work to support themselves when monies are available without working. The unemployment benefits as currently in place are more than sufficient to provide until a new job is acquired.

Your personal attention to this matter and vote to reduce rather than increase expenditures will provide for a business ability to remain competitive in the markets we serve.

Very truly yours,

John M Denlinger

John M. Denlinger
President

bef

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February 4, 1991

Honorable Thomas J. Downey
Subcommittee on Human Resources
Ways and Means Committee
B-317 Rayburn Office Building
Washington, DC 20515

Dear Congressman Downey:

Your staff invited me to testify at hearings later this month on proposed changes in the Federal Unemployment Tax Act and other provisions relating to the unemployment insurance program. Regrettably, I shall be out of the country at the time and am unable to appear. I am very interested in these changes, though, and would like to make a few remarks on them. I hope these can be entered into the record.

The $7,000 limit on earnings taxable under FUTA becomes increasingly out of line as average earnings rise. Today this restriction means that employers pay the tax on only 37 percent of the wage cost of the average worker. Applying the FUTA tax rate of .8 percent to this low base means that FUTA adds .8 percent to the cost of employing a minimum-wage worker. It adds, for example, only .2 percent to the cost of employing a worker earning $28,000 per year. Because of this low limit on the base the federal UI program creates a wedge that biases employers against hiring lower-skilled workers. There is substantial evidence that this wedge reduces employment opportunities for low-skilled workers.

I have heard various proposals for increasing the limit on the FUTA base. Particularly appealing is an increase to the base for OASDI (currently $53,400). This linkage was envisioned in the Social Security Act of 1935 and was in effect during the early years of the UI program. With it a revenue-neutral FUTA tax would result in a reduction in the tax rate to around .3 percent. This is not large a large drop. But since $53,400 covers around 90 percent of all earnings in the U.S., it is enough to remove nearly all the bias that the current tax gives employers against hiring low-wage workers. It will make some difference in employers' choices of the kinds of workers they hire. It is a fair, potentially revenue-neutral way to make a small dent in the labor-market problems of less-skilled workers.

Over the years the main effect of raising the FUTA base has been to induce states to raise the base for the state taxes that finance regular benefits. Even if states were not required to raise their

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base, I would expect that convenience for employers would quickly lead them to do so.

Increases in the base for regular state UI payroll taxes would have a major effect on the program, and an important positive impact on the employment of low-wage workers. During the 1980s federal law encouraged states to increase the experience rating of their programs by raising maximum tax rates. This occurred simultaneously with the decline in the taxable base relative to average earnings. Together these changes raised the tax cost of employing low-wage workers as a percent of total labor costs compared to the costs of employing higher-wage workers. The federal changes induced state programs to increase their incentives against the employment of low-wage workers. For example, in Pennsylvania an employer might pay 9 percent of a low-wage worker's wage in state UI taxes, but would pay only 1.8 percent on a worker earning $40,000 per year.

If states follow the federal lead, the current proposals would remove this substantial extra cost of hiring low-wage workers. This would generate many new jobs for these workers and remove a major inequity in the financing of UI benefits. At least as important, there is increasing evidence that the low tax base, and the imperfections it induces in experience rating, give employers an incentive to rely on layoffs when sales decrease. If states follow suit and raise the tax base, your efforts would have removed much of the incentive for firms to lay off workers. Lower layoffs would reduce benefit costs. With the higher base tax rates would, under pooled state systems, decrease automatically. But the higher base would actually reduce total UI costs: The tax rate would fall by more than the base would rise.

In sum, a large increase in the FUTA base, coupled with a commensurate decline in the FUTA tax rate, would at least generate some additional jobs for low-skilled workers. At the same time it would remove an inequity in the financing of the administration of the UI program. If the increase is followed by the states, it would greatly enhance these beneficial effects and would as well reduce fluctuations in employment and hence decrease the total cost of the UI program. It is not just revenue-neutral; it is also potentially cost-reducing.

Your efforts on this are commendable, and I wish you and your colleagues success in getting legislation on it approved.

Sincerely yours,

Daniel Hamermesh

Daniel S. Hamermesh
Professor, and Research Associate,
National Bureau of Economic Research

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April 1, 1991

Mr.Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U. S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

I understand that Representative Downey has introduced a bill (H.R. 1367) to raise the Federal Unemployment Tax (FUT) wage base to $53,400, the same as the social security taxable wage base, from the current FUT wage base of $7,000. At the same time, the FUT tax rate would be gradually cut from .8% to .3%. For an employee at the maximum rate, the FUT will increase from $56.00 to $160.20, an increase of 186.1%.

Representative Downey is quoted as saying his bill would make the FUT less regressive. I believe if you check the sources of the FUT you will find that it is mostly paid by the employer. The segment of society providing the most new jobs is small businesses such as Image Data. The Subcommittee "Fact Sheet" estimates a $6 billion increase in taxes, at an annual wage of $20,000 that is 300,000 jobs. This bill would place a heavy burden on employees, particularly those employers that are providing new jobs.

Rather than proposing a change to make the FUT "less regressive", a term really only appropriate when talking about individual taxes, the proposed bill will make the FUT more repressive.

Very truly yours,

Ronald E. Gray

Ronald E. Gray
Vice President of Finance and Secretary

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STATEMENT OF EFFECT OF
FEDERAL UNEMPLOYMENT TAX
ON SICK PAY

I. INTRODUCTION

This written statement discusses the inequities presently facing Health Benefit Trusts nationwide. Under federal tax law, sick pay is subject to the Federal Unemployment Tax Act ("FUTA"), whereas under many state laws, sick pay is exempt from the State Unemployment Tax Act ("SUTA").

This written statement describes the background of FUTA and SUTA, the particular facts of the case and the rationale for the repeal of FUTA insofar as it applies to sick pay. Alternatively, the Trust requests an amendment to the tax law to allow Health Benefit Trusts to be eligible for the 5.4% "free" credit discussed below.

This written statement is prepared by attorneys Richard J. Brownstein, Fred T. Hanna and James C. Cavanaugh, Portland, Oregon, who represent the Inlandboatmen's Union of the Pacific National Health Benefit Trust.

II. BACKGROUND TO FUTA

Prior to 1934, federal legislation in the area of income security and security welfare was practically non-existent. With the onset of the Depression and millions of Americans unemployed and dependent on emergency relief, charitable resources were exhausted. Although the Federal Emergency Relief Administration, established in 1933, assumed the emergency relief operations of the states, there was need for long term solutions. The existing public assistance programs were unable to meet the demand brought on by the severe economic depression. Demands for long term reform as well as short term relief ensued.

On June 8, 1934, President Franklin D. Roosevelt declared in a message to the 73rd Congress the following:

> "[I] am looking for a sound means which I can recommend to provide at once security against several of the great disturbing factors in life - especially those which relate to unemployment and old age. I believe there should be a maximum of cooperation between States and the Federal Government. I believe that the funds necessary to provide this insurance should be raised by contribution rather than by an increase in general taxation. Above all, I am convinced that social insurance should be national in scope, although the several states should meet at least a large portion of the cost of management, leaving to the Federal Government the responsibility of investing, maintaining and safeguarding the funds constituting the necessary insurance reserves." (H. R. Doc. 397, 73rd Cong., 2d Sess.)

A central purpose of FUTA was to induce the states to enact unemployment insurance statutes, Steward Machine Co. v. Davis, Collector of Internal Revenue, 301 U.S. 548, 57 S.Ct. 883, 81 L.Ed. 1279 (1937); Claim of Cassaretakis, 289 N.Y. 119, 126, 44 N.E.2d 391, 394 (1942); which would provide for the general welfare through the establishment and advance of a provident fund for the needy worker by a system of taxation. Hearst Publications v. United States, 70 F.Supp. 666, 670 (N.D. Cal. 1946), aff'd, 168 F.2d 751 (9th Cir. 1948).

The establishment of FUTA and SUTA was to ensure that employees are to be protected in the event of loss of jobs. These comprehensive tax systems operate as an insurance system to provide unemployment benefits. International Shoe Co. v. Washington, 326 U.S. 310, 311, 66 S.Ct. 154, 90 L.Ed. 95 (1945).

Primarily, FUTA taxes fund the administration expenses of FUTA and provide support for state unemployment programs. FUTA funds may be loaned to the states to pay regular unemployment benefits in the event the states are not able to meet their unemployment compensation obligations. Additionally, FUTA funds may be available to provide extended unemployment benefits to individuals (but only if such individuals are eligible to receive state unemployment benefits).

An employer is required to pay unemployment taxes into either FUTA or SUTA, or both. For the years 1986 through 1989, inclusive, the maximum gross FUTA tax rate was 6.2% of the first $7,000 of each employee's annual compensation. 26 U.S.C. § 3301(1). (All references to "§" are to the Internal Revenue Code of 1986, as amended, except as otherwise provided.) There are two credits available to an employer to offset against FUTA. An employer is entitled to a dollar-for-dollar SUTA credit against FUTA of the amount of contributions actually "paid" by the employer into its state unemployment fund, provided the state unemployment compensation law has been certified by the Secretary of Labor. §§ 3302(a), 3304; 20 C.F.R. § 601.4.

An additional ("free") credit is available to an employer for the difference between 5.4% and the actual percentage "required to be paid" to the state. § 3302(b). This "free" credit is an incentive to "good" employers to maintain low employee turnover. Generally, the employer's SUTA rate is primarily based on unemployment risk, measured by historical employee claims made against the state unemployment fund. The lower the SUTA rate, the higher the "free" credit. E.g., Oregon Revised Statutes ("ORS") 657.430. Given this credit system the lowest net FUTA rate for all years including 1986, 1987, 1988 and 1989, was .8% (i.e., 6.2% minus 5.4%).

For the years 1986 through 1989, inclusive, the SUTA rate, for example in Oregon, ranged from 2.2% to 5.4%, depending on the amount and frequency of the claims made against the employer. ORS 657.462, Table VIII. A "good" employer with a low unemployment history was charged an experience rate of only 2.2% by Oregon and was entitled to a "free" 3.2% credit against FUTA (i.e., 5.4% minus 2.2%). In contrast, a "bad" employer with a high unemployment history was subjected to a rate as high as 5.4%, and therefore would be entitled to a 0% "free" credit (i.e., 5.4% minus 5.4%).

The actual SUTA rates charged employers are based on their assigned experience rate for a particular year. As was possible for the applicable tax years, the 1990 Hawaii SUTA rates are 0% to 5.4%. Hawaiian Revised Statutes ("HRS") § 383-68. As a result, a Hawaiian employer's "free" credit for 1990 may be 5.4% for a "good" employer (i.e., 5.4% minus 0%), and may be as little as 0% for a "bad" employer (i.e., 5.4% minus 5.4%). The following chart illustrates the annual minimum SUTA rates allowed by certain states, together with the maximum "free" credit.

State	Minimum SUTA Rate	Maximum "Free" Credit
Alaska	1.0	4.4
California	.01	5.3
Hawaii	-0-	5.4
Oregon	.09	4.5
Washington	.48	4.92

Under the applicable states' laws, not every employer is required to pay SUTA. Disability payments by the trust are exempt from SUTA.[1] Additionally, other "employers" are exempt from SUTA, e.g. news deliverers, ORS 657.080; petroleum products distributors, ORS 657.090; food demonstrators, ORS 657.091; etc.[2]

The following chart illustrates the position of an exempt health trust and the IRS. It assumes $100,000 taxable compensation, a minimum (best) unemployment experience, and a SUTA rate of 2.2 percent (the minimum rate in Oregon during 1986 through 1989, inclusive):

	SUTA Contributing Employer	SUTA Exempt "Employer" IRS Position	SUTA Exempt "Employer" Trust's Postition	Hawaiian SUTA Contributing Employer
FUTA wages	$100,000	$100,000	$100,000	$100,000
FUTA	6,200	6,200	6,200	6,200
SUTA Payment	- 2,200	- -0-	- -0-	-0-
Free Credit	- 3,200	- -0-	- 5,400	5,400
Total FUTA	$ 800	$ 6,200	$ 800	$ 800
Total FUTA and SUTA	$ 3,000	$ 6,200	$ 800	$ 800

From the enactment of the Social Security Act in 1935 to 1985, accident and sick pay benefits were exempt from the Federal Insurance Contributions Act "FICA" and FUTA. In 1983 Congress amended the definition of "wages" to subject accident and sick pay benefits to FICA and FUTA, but excluded such benefits paid under workers' compensation laws. Social Security Amendments of 1983, Pub. L. No. 98-21 §324, 97 Stat. 65, 122-26.

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[1] Presently an employer exempt from SUTA can apply to be allowed in the system to make payments. E.g., ORS 657.425. Once an employer volunteers to be covered, the SUTA contribution is considered "required" so that the SUTA can be credited against FUTA. Rev. Rul. 69-356, 1969-1 C.B. 270. The trustees may have a fiduciary concern under ERISA to not incur any charges that the health trust is not legally subject to, even if a voluntary payment to SUTA would reduce the health trust's ultimate tax liability. The circumstances of a health trust (i.e., zero claims history) do not provide any rational basis for the trustees to voluntarily assume the SUTA liability.

[2] Individuals employed in such capacities are not common law employees, but are independent contractors. Accordingly, business owners are not "employers" of such individuals and are not required to pay SUTA or FUTA. Matcovich v. Anglim, 134 F.2d 834, 836 (9th Cir. 1943). The exemption allowed to such business owners recognizes that they would not have any unemployment claims made against them.

The legislative history emphasized FICA to the virtual exclusion of SUTA, with Congress failing to take into account the ramifications and the technicalities contained in the FUTA provisions allowing for the credits. (It appears that FUTA was an afterthought covered in three sentences at the end of five pages of explanation.) H. Conf. Rep. No. 98th Cong., 1st Sess. 149-50, reprinted in 1983 U.S. Code Cong. & Admin. News 404, 439-40. However, the applicable state laws exempting accident and sick pay benefits from SUTA have remained constant since originally enacted in 1935. E.g., 1935 Or. Laws Spec. Sess. Chp. 7 §2, current version, ORS 657.115(1)(b). The most preferable result is for Congress to repeal FUTA as it applies to sick pay since an individual collecting sick pay is by definition unable to collect unemployment benefits.

Every employer as defined in § 3306(a) is liable for FUTA, even if the employer is not subject to SUTA. 26 C.F.R. § 31.3301-1. A "third party payor" such as the trust paying accident or sick pay benefits is treated as an "employer" for purposes of FUTA even though the trust has no "employees" as such. § 3306(b)(flush language). Accordingly, accident and sick pay benefits paid by the trust are deemed "wages"[3] and are initially subject to FUTA at the gross rate of 6.2% for the calendar years 1986 through 1989, inclusive, on the first $7,000. §§ 3301, 3306(b)(1). However, accident and sick pay benefits paid by the trust are exempt from SUTA for the states where trust participants reside. Oregon, ORS 657.115(1)(b), 657.125; Washington, Revised Code of Washington ("RCW") 50.04.330; Alaska, Alaska Stat. §23.20.530(b)(1), (3); Hawaii, HRS § 383-11(1), (3); California, Cal. Unempl. Comp. § 933.

Unemployment compensation is based upon the amount of earnings of an employee eligible for consideration in establishing the unemployment benefits. However, the benefits paid by the trust are not eligible for such consideration. E.g., ORS 657.150(4). As a result, the trust is subject to the detriment of the tax (i.e., FUTA) without the participants receiving any benefits (i.e., state unemployment compensation).[4] Even if the benefits paid by the trust were eligible for consideration in establishing the unemployment benefits, the participants would still be denied unemployment benefits. To be eligible for unemployment compensation a recipient must be actively looking for employment. E.g., ORS 657.155(1)(c). However, eligibility for disability payments provided by the trust is based on the inability to work.[5]

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[3] The trust pays benefits to participants who are temporarily sick or disabled and unable to work. Since the participants are unable to work and therefore unable to collect state unemployment benefits, the trust payments provide a form of assistance to the disabled participants. The IRS is seeking to apply unemployment taxes on these benefits.

[4] Both the federal and state unemployment compensation systems are designed to ensure that the states have sufficient funding to manage their programs, while ensuring that the federal government is not overburdened by unemployment obligations. United States v. New York, 315 U.S. 510, 517, 62 S.Ct. 712, 86 L.Ed. 998 (1942). However, there is also an obligation to "avoid the accumulation of unneeded funds". Burlington Trucklines v. Iowa Employment Security Commission, 32 N.W.2d 792, 797 (Iowa 1948). Unemployment Insurance Program Letter No. 29-83 issued by the Department of Labor ("DOL") ("DOL UIPL 29-83").

The primary purpose of FUTA was to induce the states to adopt unemployment compensation laws. Today, however, every state has a state unemployment compensation system. Division of Employment and Training v. Yiadom, 735 P.2d 473, 476 (Colo. 1987). As a result, Congress' original goal has been accomplished. Accordingly, any interpretation of FUTA must recognize each states' right to create and administer an unemployment compensation system separate and distinct from that of the federal government. Historically, employers exempt from FUTA could be subject to SUTA. Standard Dredging Co. v. Murphy, 310 U.S. 306, 319, 63 S.Ct. 1067, 87 L.Ed. 814 (1943); Division of Employment, 735 P.2d at 476; Carmichael v. Southern Coal Co., 301 U.S. 495, 512, 57 S.Ct. 868, 81 L.Ed. 1245 (1937) ("the state is free to select [or not select] a particular class as a subject to taxation"); Steward Machine Co. 301 U.S. at 593 ("A wide range of judgment is given to the several states as to the particular type of statute to be spread upon their books.").

Sick pay should not be subject to FUTA. However, payment by the trust of the net FUTA rate of .8% will satisfy the federal policy of having sufficient funds in the FUTA Trust Fund to assist any state in the event of any shortfalls in a state's unemployment compensation fund, and to cover administrative expenses for FUTA.[6] Once this policy objective is satisfied, all other policy decisions should be reserved to the indivi-dual states. This would affirm the position of the courts that "Congress has afforded great discretion to the states in the design and operation of their unemployment insurance programs . . . although Congress has established a limited number of fundamental standards that states must satisfy to receive the benefits of federal certification of their programs." Watkins v. Cantrell, 736 F.2d 933, 937 (4th Cir. 1984).

III. STATUTORY CLAIMS FOR FUTA CREDITS

A. DOLLAR-FOR-DOLLAR SUTA CREDIT

A dollar-for-dollar credit against FUTA is available in the exact amount of any contributions "paid" by an employer into a state unemployment fund that has been certified as provided in § 3304. § 3302(a)(1). The position of the IRS is that an employer is only eligible for the § 3302(a) credit if the employer actually pays into the state unemployment fund. 26 C.F.R. § 31.3302(b)-1(a). If the employer is exempt from SUTA, the credit is denied. IRS Publication 539. The trust is not attempting to circumvent FUTA or SUTA, but should be required to pay only its fair portion of FUTA, as well as any portion of SUTA "required" by the applicable states. If necessary, in order to address the IRS' concerns regarding the "free" credit provided in § 3302(b) discussed below, it is the position of the trust that it has paid all of the SUTA tax it is required to pay under the applicable states' laws. Consistent with its exemption from SUTA, the trust is entitled to a credit under § 3302(a) in a zero amount.

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[5] One purpose of imposing unemployment taxes is to create an insurance pool to provide unemployment compensation benefits. It is completely inappropriate to fund the insurance pool with unemployment taxes imposed on disability benefits when the participants are unable to receive benefits from this insurance pool. DOL UIPL 29-83.

[6] The trust participants are not eligible to receive benefits from either FUTA or SUTA. Accordingly, the trust should not be subject to any portion of FUTA. Congress should repeal the application of FUTA to sick pay. However, in recognition of federal policy that .8% is needed to satisfy FUTA administrative expenses or secondary funding requirements, and in acknowledgment that every "employer" is subject to FUTA, the trust may pay FUTA at a rate of .8%. The trust is entitled to receive the 5.4% "free" credit based on its "no claims history." By paying .8%, the trust is treated the same as every other employer; not any better but not any worse. See also, United States v. New York, 315 U.S. at 517; Burlington Trucklines v. Iowa Employment Security, 32 N.W.2d 792, 797 (Iowa 1948); DOL UIPL 29-83.

B. ADDITIONAL "FREE" CREDIT

In addition to the credit for amounts "paid" to a state, there is available an additional "free" credit equal to the difference between 5.4% and the actual percentage "required to be paid" to the state. § 3302(b).[7] Generally, by applying this credit, an employer pays only .8% to FUTA, regardless of the employer's SUTA rate. For example, an employer with a 0% experience rate would not pay any SUTA, and would only pay .8% to FUTA. In total disregard of the trust's "no claims history," the IRS has required that the trust pay the full 6.2% of FUTA on its disability benefits. As a result, the trust is now treated the same as a "bad" employer with a history of high unemployment. The trust as a SUTA exempt "employer" has a "no claims history" with all applicable states, similar to an employer with a 0% experience rate.

The trust should be eligible for the entire 5.4% "free" credit available under § 3302(b), the difference between 5.4% and 0% (the amount the trust is required to pay into the states' system). By following the plain statutory language that is designed to allow the states to formulate their own unemployment compensation systems, the trust should be eligible to receive the full "free" credit of 5.4% against FUTA as provided in § 3302(b).

1. REQUIREMENTS FOR REDUCED RATE OF CONTRIBUTIONS

a. COMMON SENSE REQUIREMENT

To be eligible for the additional "free" credit under § 3302(b), the Secretary of Labor must find that a reduced rate of contribution is permitted only on the basis of (1) the employer's "experience" with respect to unemployment; or (2) "other factors" bearing a direct relation to unemployment risk during a period not less than the three consecutive years immediately preceding the computation date. § 3303(a)(1). The purpose of the "free" credit is to ensure that employers with low claims histories and low SUTA rates are not penalized by giving them the net FUTA rate of .8%. The IRS's position is the trust must pay the full 6.2% to the federal government, even though it has a "no claims history."

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[7] In computing the "free" credit, the actual amount "required to be paid" under § 3302(a) shall be used, whether or not it is actually paid. 26 C.F.R. § 31.3302(b)-1(b)(1)(ii). Thus, a "deadbeat" employer who has not made the required payment under § 3302(a) is not eligible to credit the delinquent amount under § 3302(a). However, the "deadbeat" employer is eligible for the "free" credit provided under § 3302(b). In other words, the position of the IRS allows a "deadbeat" employer to be treated more favorably than this health benefits Trust. Obviously, the Congressional policy behind FUTA is not followed by allowing this irrational result.

The Supreme Court has noted that "robust common sense" must apply to unemployment compensation laws. Steward Machine Co., 301 U.S. at 590. Common sense dictates that since the participants are ineligible to collect any benefits from either the federal or state unemployment compensation systems, the Trust has a "no claims history."

The United States Supreme Court ruled that the appropriate focus for discerning Congressional intent for FUTA is the plain language of the statute. Rowan Companies, Inc. v. United States, 452 U.S. 247, 255, 101 S.Ct. 2288, 68 L.Ed.2d 814 (1981). The plain language of § 3302(b) and § 3303(a)(1) allows the "free" credit if a reduced SUTA rate is based on "experience" or "other factors." Consistent with providing a remedy for unemployment nationwide, the trust's "no claim history" requires a reduced SUTA contribution rate, i.e., the trust does not create the "disease" (unemployment risk) that unemployment taxes are designed to "cure."

In the only ruling promulgated by the IRS in this area, the IRS offered only collection advice for FICA.[8] Subsequently, the U.S. Department of Labor ("DOL") declared that the collection procedures established by the IRS are unworkable for many multiemployer plans. DOL ERISA Opinion No. 82-32A.[9]

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[8] The IRS announced in 1985 that disability payments made by a third party payor under a contract with a multiemployer trust could notify the plan of the payments. IR 85-41. If notified, the plan would be required to pay FUTA, unless within six business days of receipt of notice the plan forwards the notice "to the employer for whom services are normally rendered." This Announcement failed to acknowledge the trust may be self-insured, failed to provide sufficient guidance for notifying multiple contributing employers in a multiemployer context, and failed to recognize the administrative burden of providing such notice. This Announcement is not workable for this trust due to its transitory employees. It is administratively burdensome to allocate wages to the various employers since there are 4500 participants and 48 employers (including divisions or subsidiaries). Even if notice is provided to the last employer, the employee may only have worked for that employer for one day and worked the remaining year for another employer. Alternatively, an employee may not have worked for any employer for several years and yet is collecting benefits. To require an employer to pay FUTA on an employee who worked one day for the employer several years ago is completely inappropriate and unworkable and would probably violate the terms of the collective bargaining agreements.

[9] The DOL Opinion recognizes it is often impossible to attribute payments of disability benefits under a multiemployer plan to a single employer. The trust requesting the ruling was concerned with § 6051(f), which provides that any person making a payment to an employee of third party sick pay shall furnish a written statement shortly after the end of the year to the employer in respect to whom such payment was made. The trust asked that it be permitted to mail the required employer statements directly to the employee and to the IRS. This would allow the multiemployer plans to comply with § 6051(f) at minimal cost and was the only feasible method for some multiemployer plans to comply with reporting requirements. The DOL Opinion states that the fiduciary responsibility provisions of ERISA require plan trustees to follow that procedure which, of any available alternatives, would be the least burdensome and least costly for the plan.

The Secretary of Labor certifies the states' unemployment laws and the DOL is the administrative agency regulating unemployment taxes, including collection. DOL UIPL 29-83. Through the certification process, the DOL determines whether the credits provided in § 3302 are available. Since the DOL is not structured to collect taxes, the IRS acts as the DOL's tax collector. Accordingly, to determine if the trust is eligible for the 5.4% "free" credit, Congress should review the guidance of the DOL.

b. EXPERIENCE REQUIREMENT

In a DOL Directive issued to all of the states' Employment Securities Agencies explaining the requirements of § 3303(a)(1), the following statements make clear that the trust satisfies the experience rating principles entitling it to the 5.4% "free" credit:

> 3. Background . . . The objectives of experience rating are (1) the prevention of unemployment by inducing employers to stabilize their operations and thus their employment, and (2) the equitable allocation of the costs of compensable unemployment. Under the first objective, differential contribution rates are taxes to discourage unemployment insofar as employers have the power to control their operations. Under the second objective, sound fiscal policy suggests allocating the cost of doing business to the entities deemed responsible under State law for those costs.
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> 6. Attachment ... Section 3303(a)(1) is implicitly designed to accomplish, through differentiation of rates among employers, one or both of the objectives of experience rating -- the promotion of stability of employment and an equitable allocation of the costs of benefits. Since unemployment compensation as a program insures the worker against the risks or hazards of unemployment -- hazards which are his rather than the employer's -- the terms "unemployment" and "unemployment risk" refer to the unemployment or the unemployment risk of insured individual workers, and the reference in the Federal law to an employer's experience with respect to these is to the employer's experience with respect to factors directly related to his workers' risk of unemployment. [DOL UIPL 29-83.]

The trust is a "deemed" employer for FUTA purposes. In order to reasonably complete the initial legal fiction of the trust as an employer, "robust common sense" dictates that the trust has either a deemed work force or no employees. Either way, the trust has complete stability in its work force, thereby satisfying the DOL's first objective. Since the trust does not have any unemployment risk, "sound fiscal policy" requires that its experience rate be 0%. Accordingly, the exemption under state law evidencing a 0% experience rate is an "equitable allocation of the costs" of benefits satisfying the DOL's second objective. With the unemployment risk of the trust's "insured individual workers" being nonexistent, the trust has a 0% experience rate.

(i) EXEMPTION IS EQUIVALENT TO A 0% EXPERIENCE RATE

The Trust disability benefits are only available to participants unable to work and therefore ineligible to claim unemployment benefits from the applicable states. Accordingly, there is no rational basis to subject the trust to the gross 6.2% FUTA rate. The trust has a "no claims history," similar to an employer with a 0% experience rate. Accordingly, the Trust is entitled to the "free" credit of 5.4% less 0%, or a "free" 5.4% credit. The finding by the states that disability benefits are not subject to SUTA suggests the exemption is equivalent to a reduced rate of contribution.[10]

c. "OTHER FACTORS" REQUIREMENT

§ 3303(a)(1) also provides that the additional credit under § 3302(b) may be permitted if there is a reduced rate of contribution based on "other factors" bearing a direct relation to unemployment risk. "Other factors" "are limited to those basic elements which may reasonably be counted for the purpose of establishing the frequency or frequency and severity of an employer's experience with the impact of unemployment upon his workers." DOL UIPL 29-83. "Robust common sense" dictates that a basic element of "other factors" includes the nonexistence of employees, which precludes any possibility of unemployment risk.

The following constitutes "other factors" which the DOL has acknowledged relate to unemployment risk: benefit payments, separations, compensable separations, benefit wages, and payroll variations, or a combination of such factors.[11] Since the trust does not make any of these payments, does not have any employee separations, and does not have any payroll variations, the trust satisfies the DOL's "other factors" requirement. Accordingly, similar to any other employer so completely satisfying the "other factors" requirement, the trust is entitled to its reduced rate of contribution of 0%.

The states have the primary obligation to provide unemployment compensation benefits. The two credits in §§ 3302(a) and (b) provide the mechanism for the federal law to complement the states' unemployment tax systems with the goal of collecting the .8% net FUTA tax. Absent clear preemption and imposition of federal standards, the federal law does not prevent the states from providing SUTA exemptions or zero experience rates to an employer, provided the requirements of § 3303(a)(1) are satisfied.

IV. CONCLUSION

Sick pay should not be subject to FUTA. For a participant to be eligible to receive sick pay, the participant cannot be eligible to collect unemployment since by definition a person must be able to work to collect unemployment. It is inherently unjust to subject taxes on an individual where no benefit can be derived. § 3306(b)(2) and § 3306(b)(2)(A) should be amended to read as follows:

> (b) WAGES - For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term shall not include -

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[10] DOL UIPL 29-83. To support this equivalency analysis, the DOL could decertify any state whose exemption policy is not based on "experience" or "other factors" which could undermine the objectives of FUTA. 20 § C.F.R. 601.1 et seq.; See also, Recommended Decision, U.S. Department of Labor v. State of Washington Employment Security Department, Case No. 86-CCP-1.

[11] A new or newly covered employer may be assigned a reduced rate (not less than 1%) on any reasonable basis [emphasis added] other than the employer's unemployment risk. DOL UIPL 29-83.

> (2) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependants under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependants) or for a class or classes of his employees (before a class or classes of his employees and their dependants), on account of -
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> (A) sickness or accident disability.

Assuming FUTA will apply to sick pay, the applicable states' SUTA exemptions do not stand as obstacles to the accomplishment of the purposes of Congress to create state unemployment compensation systems and provide supplemental administrative support to such systems. The federal unemployment tax fund is not harmed since the required minimum net tax of .8% is paid by the trust. The certified states may provide to qualified employers an exemption from SUTA which indirectly provides assistance to those individuals unable to receive unemployment benefits under state law. If such exemption is based on unemployment risk, then such employers are entitled to the 5.4% "free" credit. § 3302(b) should be amended so that it is § 3302(b)(1), and § 3302(b)(2) should be added as follows:

> (b)(2) MULTIEMPLOYER PLAN -- Notwithstanding paragraph (1), a multiemployer plan (as defined in § 414(f)(1)) shall credit against the tax imposed by Section 3301 for any taxable year an amount equal to 5.4% of such tax for amounts paid under an accident and health plan (within the meaning of Section 105(e)), or any other payments due to temporary disability or sickness that are exempt from State unemployment funds (within the meaning of Section 3302(a)). A multiemployer plan shall not be required to comply with the notification requirements to any employer (within the meaning of Section 3306(c)) to be eligible for this credit.

STATEMENT OF THE
NATIONAL ASSOCIATION OF MANUFACTURERS

BEFORE THE SUBCOMMITTEE ON HUMAN RESOURCES
of the
HOUSE WAYS AND MEANS COMMITTEE

SUBMITTED FOR THE HEARING RECORD
ON H.R. 1367
THE UNEMPLOYMENT INSURANCE REFORM ACT OF 1991

H.R. 1367 would repeal the 20-year-old Federal-State Unemployment Compensation Extended Benefits Program and proposes to replace it with a broader, more expensive program that would activate more often, and pay extended benefits up to twice as long (the current 13 week benefit program would be extended to 26 weeks). The enormous cost of the new program -- nearly $5 Billion in 1992 alone -- would be passed on to employers. NAM cannot support this legislation which creates a new and substantial tax burden for employers to fix a program that isn't broken. As outlined below, the current system is working, and should not be changed.

The program works. The Unemployment Insurance system was established in the mid-1930's as a federal-state program to provide workers with temporary income during periods of unemployment. It was not designed to be a long-term income maintenance program, but rather, to provide workers with a partial wage replacement when they have lost their jobs. Other Federal programs, such as the Job Training Partnership Act, are available to provide retraining. The program is operated as a partnership between the federal government and the states. Both the federal and state government tax employers to finance the program, although states are relatively free to respond to local economic conditions and workers' needs by operating their own programs. This results in a system of state-specific tax rates, benefit levels, and trust fund balances. Under current law, the gross federal tax rate is 6.2 percent on the first $7,000 paid annually by employers to each employee. This rate is reduced by a credit reduction of 5.4 percent for states conforming with federal guidelines. States are free to establish a taxable wage base for state UI taxes, although it must at least equal the federal taxable wage base. Thirty-six states have adopted wage bases above the federally mandated level, ranging from $7,100 in Connecticut to $22,400 in Alaska.

On February 6, 1991 the Director of Unemployment Insurance Service, Department of Labor, testified that the current balances of the federal UI accounts are sufficient to handle administrative costs for projected workloads, extended benefit payments, and state trust fund loan requirements. **Benefits are being paid to those workers for whom the program is designed. In February, 1991, forty-five percent of the unemployed were collecting benefits -- a normal percentage in what has been characterized by economists as a recession.**

No gap in coverage exists. Recently, proponents of this legislation have attacked the UI program charging that its coverage has declined to the point where only one-third -- or less -- of the unemployed are covered by the program. The UI system was never intended to provide benefits to every unemployed person. It was designed to be paid to experienced workers for temporary periods of time. The system does not cover persons who have never worked; those who are reentering the labor force and have no recent employment experience; those who quit their job without good cause; and those who are discharged for misconduct. "Covered employees" are those who earn wages subject to unemployment taxes.

The proposed 800% tax increase cannot be justified. The proposed change in the tax base from $7,000 to $55,800 is unnecessary and not in keeping with the history of the UI program. Last year's proposal would have increased the wage base from the current $7,000 to $10,000, with indexing thereafter, and would have increased employer costs sixty-three percent per employee by 1995. This proposal is far more excessive, since under H.R. 1367 employers would pay an estimated $27.1 billion more over 1992-1996. This new tax burden would result in less business start-ups, more small business closings, and an overall reduction in the U.S. competitive posture. In short, it would increase unemployment by eliminating jobs.

The federal tax on employers under UI was designed for limited purposes: to finance the cost of administration, the payment of the federal share of EB costs and to maintain a loan fund.

For FY91, employers will have paid in over $5 billion to the federal trust fund (and nearly $40 billion to state trust funds). In reality, the trust funds' assets are being used by the federal government to offset the federal deficit. To attempt to increase this tax on employers as a means of artificially offsetting the deficit is not only fiscally irresponsible, it is a breach of faith with the employer community.

At a time when U.S. companies are struggling to operate in an increasingly competitive globalized market, the Ways and Means Committee should be considering legislative proposals to enhance America's competitive posture. Proposals such as H.R. 1367 which would prolong the recession and increase unemployment should, once again, be defeated in Subcommittee.

STATEMENT OF THE NATIONAL EDUCATION ASSOCIATION

Mr. Chairman and Members of the Subcommittee:

The National Education Association represents more than two million education employees in the nation's elementary, secondary, vocational, and postsecondary education institutions. We appreciate this opportunity to comment on an issue of great importance to thousands of men and women who play an essential role in the health, welfare, and security of our nation's schoolchildren: unemployment compensation for noncertificated education employees.

NEA strongly supports H.R. 516, which would restore the right of states to provide unemployment benefits to seasonal employees, as well as protecting school employees who are truly laid off but are denied access to unemployment compensation because of vagaries in existing law.

From the time the Unemployment Compensation System was established in 1935 until the enactment of the Special Unemployment Act (SUA) of 1976, elementary and secondary education employees -- like many other public employees -- were excluded from unemployment coverage.

The 1976 legislation extended coverage to most employees of state and local governments. It prohibited unemployment benefits for teachers and other professional employees of elementary and secondary schools during vacation periods -- so long as such workers had contracts or "reasonable assurance" of employment in the next school term. But it allowed states the option of providing or denying unemployment benefits to education support employees. By 1983, 17 states provided unemployment benefits to noninstructional school employees.

The state option to protect noninstructional school employees under the Unemployment Compensation system was eradicated by the acceptance of a nongermane amendment to the Social Security Act Amendments of 1983. This significant change was enacted without benefit of a single hearing, without any opportunity for those affected to voice their opinion, and without a chance for Members of Congress to consider the ramifications.

The 1983 changes have caused unduly harsh benefit restrictions that are detrimental to many members of the educational community. NEA supports unemployment compensation coverage for all education employees. But noncertificated education employees labor under unique circumstances that demand immediate relief.

Noncertificated school employees are among the lowest paid group of workers in the nation. Despite the importance of these positions to the operation of our nation's public schools -- and to health and well-being of the 40 million children who attend public schools -- bus drivers, custodians, secretarial and clerical employees, cafeteria workers, paraprofessionals, and other noncertificated, seasonal school employees are often paid at or near the minimum wage. These positions are held disproportionately by women and minorities, and since these workers are paid hourly, they receive an annual income based on nine months of the year, not 12.

Only three types of seasonal employees are denied access to unemployment compensation -- school employees, farm workers, and professional athletes. Several years ago, President Reagan's son, Ron, caused a national furor when he applied for and received unemployment compensation following the end of ballet season. His explanation was that he didn't want to ask for help from his parents. Our members who are denied benefits do not have the option of asking the President of the United States for a loan. Most of them are the sole or principal support of their families, and many must rely on some form of public assistance during the summer when they cannot find temporary work.

School employees are treated differently than other public employees who may do identical work. For example, a crossing guard who is employed by a municipal government, and is laid off at the end of the school term, may file for unemployment compensation. A crossing guard who is employed by a school district may not.

When public schools meet financial difficulties, education employees are frequently the first to suffer. At present, some school districts avoid paying unemployment compensation by giving "reasonable assurance" of rehiring school employees -- even when the district has no intention of rehiring the individual or even filling the position in the next school term.

There are countless professions where the nature of the industry, the climate, variable demand, and other factors determine that there are normal periods of the year when individuals in these professions are periodically unemployed. In no other case -- with the exception of professional athletes, migratory workers, and school employees -- is there a blanket provision declaring them ineligible for unemployment assistance.

Further, there is no compelling need for a federal regulation exempting school employees. Because states have a financial obligation at stake, it is unreasonable to assume that states would abuse the program. Sufficient federal and state protections -- waiting periods and requirements for seeking employment, for example -- protect against abuse by individuals.

In 1989, the Congressional Budget Office (CBO) estimated that restoring the state option to provide coverage would cost the federal government $5 million annually. In reality, the fiscal impact is a three-month lag between the payment to individuals and reimbursement by public schools and non-profit educational institutions.

The treatment of school employees under the Unemployment Compensation System is a gross injustice. NEA strongly supports enactment of legislation to reinstate provisions of the Umployment Compensation System that allow states the option of paying benefits to noncertificated school employees.

Thank you.

STATEMENT OF RICHARD C. SCHNEIDER, CHIEF MASTER SERGEANT, USAF, RETIRED, DEPUTY DIRECTOR OF LEGISLATIVE AFFAIRS, NON COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA

Mr. Chairman, the Non Commissioned Officers Association of the United States of America (NCOA) greatly appreciates the opportunity to comment on H.R. 1367, the "Unemployment Insurance Reform Act of 1991." We have two primary concerns with this proposed legislation: First, is our total support for the restoration of ex-servicemembers' benefits from the current thirteen weeks to twenty-six weeks, and to reduce their waiting period from the current four weeks to the standard of one week. Secondly, we believe that there should be direct language in the legislation that would require standardization by the States in the administration of unemployment insurance for members of the reserve forces who lose primary employment. We need to insure protection of unemployment insurance for citizen/soldiers in those states where unemployment benefits are eliminated or reduced because of reserve participation. Our comments on these concerns are addressed below.

RESERVE FORCES UNEMPLOYMENT INSURANCE

Drill pay of a Reservist or Guardsman is excluded in some states when the individual loses their primary civilian job and their unemployment insurance is computed. In a majority of states, however, Reserve drill pay is the basis to reduce or disallow totally unemployment insurance when the individual's primary job is lost. For those in the latter category, the Reservist must terminate his Reserve/Guard service to be eligible for unemployment compensation. This is simply not right. We cannot afford the hemorrhage of experience and talent in the Reserve/Guard components caused by the individual exodus of members seeking to qualify for rightly deserved unemployment insurance.

We recognize today the revitalized role of reserve and guard components in meeting national wartime military objectives. Their significance becomes even more crucial with the on-going reductions in the active military services. They are the force multipliers that provide immediate wartime surge capability of trained combat and support elements. The Persian Gulf War has proven not only the effectiveness and value of reserve elements but has indelibly marked their integration into future wartime planning process.

The average Reservist is a part-time "warrior" of their respective service component. They participate in monthly drills and two weeks annually in active duty for training to develop their military skills. They receive limited compensation for their Reserve participation. Their primary source of income is their civilian employment.

NCOA would like specific language added to H.R. 1367 that would provide relief in unemployment insurance benefit for members of the Reserve Components. We seek the standardized treatment by all States in regard to reserve drill pay in the computation for unemployment benefits. Specifically, reserve/guard drill pay should be excluded from the determination on unemployment insurance benefit for which the individual is entitled.

ACTIVE DUTY PERSONNEL SEPARATING MILITARY SERVICE

We thank the Subcommittee for their work to correct the inequity of UCX benefit for separating active duty servicemembers.

The proposed H.R. 1367 is extremely relevant at this time since the nation is experiencing the onset of a recession of yet unknown proportion; national unemployment rates have increased dramatically; and, announcements of employment layoffs occur weekly. These factors combined with the recent resolution of the Persian Gulf War means not only the return of our forces, but a massive and immediate demobilization of thousands of military personnel into the civilian job market. And, this demobilization will also occur simultaneously with the Department of Defense's renewal of efforts to meet Congressionally mandated force structure reductions in military manpower over the next five years. Hence, as the Subcommittee recognizes, the importance of this legislation is of paramount concern as a large number of separating military members will transition into a diminished job marketplace accented by an exacerbated high unemployment rate.

Demobilization will see over 70,000 servicemembers separated with minimum notice of their effective release date. These people were denied separation on their scheduled separation dates and were extended on active duty when "STOP LOSS" personnel policies were introduced to meet Persian Gulf war time manpower needs. The Congressionally mandated military force restructuring requires a 20% personnel reduction over the period fiscal years 1990-95. This reduction equates to over 416,000 active duty personnel. Congressional testimony by DOD before the Armed Service Committee in late March 1991 stated that all of the services would miss their FY91 reduction goals but would be back on track in early FY92 and meet their objectives by the end of FY92. Reduction programs include reduced recruit accessions, limiting first term reenlistments into the career force, reducing high year of tenure of individual grades to force separations and retirements, and quality force measures that will involuntarily separate people who at other times would have been retained (simple interpretation: a one mistake career philosophy).

In 1982, the Congress partially restored unemployment compensation to those who had served honorably in the military, but limited their benefits to thirteen (13) weeks after a specified delay of five (5) weeks before payments could start. H.R. 1367 would provide ex-servicemembers equity with jobless civilians (i.e. twenty six (26) weeks of benefits started one week after application, and in unique circumstance an additional extension of thirteen (13) weeks benefits).

We have noted that the Department of Labor in their testimony opposes the provisions of H.R. 1367 that would expand benefits to all ex-servicemembers and are appalled at their opposition. The administration believes the legislation would provide preferential treatment for ex-servicemembers compared to civilians. NCOA`s rationale for disagreement follows:

- There is no basis for comparison between joining the Armed Forces and securing employment in the civilian sector. No civilian occupation requires:
    - An oath of enlistment to "support and defend the Constitution of the United States";
    - Personal accountability of employees to the equivalent of the Uniform Code of Military Justice;
    - Giving up personal rights and decisions of the employee to decide if they want to work in a remote part of the world, fight in a war, or be separated for an extended period from their family;
- The decision to join the Armed Forces should not penalize, by loss of UCX benefits, the individual who has honorably served his country but has decided against a military career because of the loss of personal control and the personal sacrifices demanded of himself and his family.

Unlike the civilian contemporary, the servicemember cannot voluntarily leave the military except at the end of his enlistment, unless the service mandates an early release program which ultimately has a negative impact on the transition plans of the individual member. It would appear that the Administration expects that every individual who joins a military service should complete a military career or be penalized through a less than adequate UCX entitlement unless the member is involuntarily separated. A person with honorable service cannot make a personal career decision without losing UCX while a person whose unsatisfactory performance results in an involuntary separation is granted UCX privilege. This simply is not right.

Let us look at the people upon whom the existing limitation on unemployment compensation has the greatest effect. Regrettably, they are the younger service people with limited financial resources and even with advance planning are not financially prepared for the abrupt transition they will experience. Currently they are stationed at locations around the globe. A snapshot of this group would reveal:

- Few, if any, are living where they joined the military.
- over 50% married with one or more children (compared to almost 100% single at time of enlistment).
- High school educated, some with limited college.
- Separation from service and relocation in most cases results in the loss of two jobs and sources of income of the member and spouse. In a substantial number of cases, the loss of a third income from the military member's part time job. It is obvious that this group has financial burdens that will follow them upon separation from the military.
- Do not own residences in their home towns. Many families will temporarily be domiciled with parents.
- All of them will be relocating to where they want to settle and begin their transition to the civilian sector. No one in the military has ever been fully reimbursed on a change of station move. Current estimates are reimbursements of $1.00 for every $3.00 spent on a move.
- Those in the combat arms (infantry, artillery, munitions, etc.) do not have skills that easily translate to the civilian marketplace.
- Personal high debt to income ratios.
- Age 20-25.

Our association also recognizes that the majority of service members will be separated on schedules determined by their service component. Service members will be given limited time to prepare themselves for transition to civilian life. This transition will be further complicated for members assigned to the Persian Gulf. Their families currently live at or near military installations around the United States, and time and "money" will be needed to collect their families and transition to their "home town" America. These people simply do not have the fiscal resources to travel independently prior to separation to secure housing and employment. Although service programs exist to allow administrative leave for these purposes, the stark reality is that the majority of enlisted members do not have the personal finances to pursue jobs and housing across the country. Another group that will be similarly effected, and perhaps to a greater degree are those service members assigned overseas whose expiring service commitment will result in their separation at "Port" upon return to the United States. Add to the latter group an accompanying family (spouse and children) and you begin to see the parameters of the problem. Relocation and all the associated expenses, lack of a future job prospect, and no home in which to settle.

We also recognize the "gaming" that takes place in the separation of first term military personnel. In 1988 and 1989, literally thousands of military members in their first term of enlistment were asked to make an early reenlistment career decision. These young first-termers had to decide to reenlist or to separate up to nine months prior to their original date of separation. Those opting to separate after completing over three years of honorable service were separated within 90 days (still months before their original separation dates). These separations were viewed by the service as voluntary! Few of those separated saw their departure as voluntary. Lives were negatively impacted.

CONCLUSION

Our focus on H.R. 1367 has been specifically limited to a request that a national policy be incorporated into the language of the legislation whereby drill pay would be excluded from the unemployment insurance formula used by the states when reservists or guardsmen lose their primary jobs. This action will preclude these citizen/soldiers from terminating their reserve/guard commitments to qualify for their justly deserved unemployment insurance at a difficult time in their lives. Secondly, we applaud and fully support the legislative provision that will provide the separating servicemember with UCX benefit the same as a civilian contemporary.

Ultimately, the above actions will help all service people, active and reserve, in their transition to become gainfully employed "tax payers" for as they prosper, so will our Nation.

Thank you for the opportunity to comment on H.R. 1367.

581 Whitford Hills Road
Exton, PA 19341

April 3, 1991

Mr. Robert J. Leonard, Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Re: House Bill 1367; Unemployment Insurance Reform Act of 1991

Dear Mr. Leonard:

This letter is to formally submit my comments in opposition to the proposed FUTA increase reflected in House Bill 1367.

I am sure few would argue with expanding unemployment coverage for the returning servicemen. However, I strongly disagree with putting this burden on the American businessman. Why not use some of the alleged excess funds collected from our allies for this worthy purpose?

I am certain my business is like many others; we cannot afford our FUTA costs to increase by over 400%! This kind of increase cannot be absorbed nor can it be passed on to our clients. Our only alternative will be to lay employees off, adding more people to the unemployment rolls.

Please ensure my comments are considered during the Subcommittee Hearings on House Bill 1367.

Very truly yours,

James J. O'Brien

JOB/jlv

cc: The Honorable Richard T. Schulze
United States House of Representatives
2369 Rayburn House Office Building
Washington, DC 20515

Zagar

INCORPORATED

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216-731-0500 TX 098-5396

April 4, 1991

Robert J. Leonard, Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Chief Counsel Leonard:

"The Unemployment Insurance Reform Act of 1991" holds two provisions which have merit. It would amend the Budget Act to make all administrative funding exempt from all sequestrations. It restores all ex-service members' benefits from the current thirteen (13) weeks to twenty-six (26) weeks and reduces their waiting period from the current four (4) weeks to one (1) week. My concerns with the bill include the change of the trigger mechanism from IUR to TUR and the change in tax rates and unemployment taxable wage base.

The use of Total Unemployment Rate (TUR) runs contrary to sound fiscal practice. The TUR is an estimate. It is difficult, if not impossible, to determine with accuracy the total number of individuals seeking employment. Even the documented U.S. Census, which cost U.S. taxpayers millions of dollars resulted in challenges as to its accuracy. The move from a measured (IUR) to a guesstimate (TUR) and its use as a trigger mechanism for states to pay benefits, should not be allowed.

The bill provides for a reduction of federal unemployment tax rates, but increases the unemployment taxable wage base. For our machine tool company this equates to 234% tax increase of the 1992 to 1996 average tax.

UNEMPLOYMENT INSURANCE REFORM ACT OF 1991
IMPACT OF FUTA TAX INSURANCE

	91	92	93	94	95	96
FUTA Tax Rates (%)	0.80	0.75	0.60	0.55	0.40	0.35
FUTA Wage Base	7,000	55,800	58,800	62,700	66,000	69,600
100 Employee Payroll	2,355,959	2,355,959	2,355,959	2,355,959	2,355,959	2,355,959
FUTA Taxable Payroll	667,192	2,349,792	2,352,596	2,355,959	2,355,959	2,355,959
Total FUTA Tax	5,338	17,623	14,116	12,958	9,424	8,246
FUTA Avg/Employee	53.38	176.23	141.16	129.58	94.24	82.46

member
amba

Multiple-Spindle Head
Specialists

Our average tax increase in the first year would go from $49.88 per employee to $176.23 per employee. This average cost includes all our employees covered by FUTA, including all active, separated, retired and temporary personnel. Employers with an average employee wage of $23,500 will pay an additional $35,677 per 100 employees in FUTA taxes over the first five years. No adjustment for cost of living was made and actual costs will be higher, dependent upon CPI.

I urge the members of this subcommittee to oppose this tax increase and support legislation that would remove the FUTA trust fund from the Gramm-Rudman-Hollings deficit calculation and the Budget Enforcement Act process.

Sincerely,

ZAGAR, INC.

William Hanigan

William Hanigan
Vice President
Administration/Personnel

WH/dc